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Presidential Documents

Title 3—

The President

Proclamation 4908 of March 10, 1982

Afghanistan Day

By the President of the United States of America

A Proclamation

In December 1979, the Soviet Union invaded Afghanistan without provocation and with overwhelming force. Since that time, the Soviet Union has sought through every available means, to assert its control over Afghanistan.

The Afghan people have defied the Soviet Union and have resisted with a vigor that has few parallels in modern history. The Afghan people have paid a terrible price in their fight for freedom. Their villages and homes have been destroyed; they have been murdered by bullets, bombs and chemical weapons. One-fifth of the Afghan people have been driven into exile. Yet their fight goes on. The international community, with the United States joining governments around the world, has condemned the invasion of Afghanistan as a violation of every standard of decency and international law and has called for a withdrawal of the Soviet troops from Afghanistan. Every country and every people has a stake in the Afghan resistance, for the freedom fighters of Afghanistan are defending principles of independence and freedom that form the basis of global security and stability.

It is therefore altogether fitting that the European Parliament, the Congress of the United States and parliaments elsewhere in the world have designated March 21, 1982, as Afghanistan Day, to commemorate the valor of the Afghan people and to condemn the continuing Soviet invasion of their country. Afghanistan Day will serve to recall not only these events, but also the principles involved when a people struggles for the freedom to determine its own future, the right to be free of foreign interference and the right to practice religion according to the dictates of conscience.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate March 21, 1982, as Afghanistan Day.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-6913
Filed 3-10-82; 3:54 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4909 of March 10, 1982

National Energy Education Day, 1982

By the President of the United States of America

A Proclamation

Over its two-hundred-year history, this nation grew and prospered through the abundant production and use of energy. The American people began by using wood for nearly all of their needs, started using coal in large quantities in the mid-1800's, and moved to large-scale oil and gas use in the early part of the twentieth century.

All of these energy sources will continue to have an important role. But new sources are coming along as well: atomic power, now used to generate more than 12 percent of our electricity; solar energy; synthetic fuels; biomass; and a host of other new technologies.

The significant innovations in energy that took place over the past two hundred years were the product of the vision and foresight of citizens working through our free market economy.

Today, with our own precious resources more limited, an important share of our energy supplies is threatened by political uncertainties in oil exporting regions. It is critical that our nation continue to take advantage of the ingenuity and talent of the American people to produce and consume energy efficiently.

Toward this end, my Administration has removed oil price controls and eliminated over 200 burdensome regulations associated with those controls. In so doing, we have provided new incentives for private industry to develop domestic energy resources and produce domestic energy supplies that were not feasible with fuel prices set at an artificially low level. Realistic pricing, of course, has also encouraged consumers to use energy more efficiently.

The decontrol of oil prices has been a success. Despite higher economic growth in 1981 than predicted:

- Oil consumption has fallen by 1.1 million barrels per day.
- Net oil imports have dropped below one-third of consumption for the first time since 1972.
- Oil production began to increase for the first time in a decade.
- Oil prices actually fell in real terms.

The challenge ahead is to create a healthy economy that enables citizens, businesses, and state and local governments to make rational energy production and consumption decisions which reflect the true value of this nation's resources.

Today, more than ever, it is important for all Americans to understand that the United States and its allies are participants in a world energy market. Our effectiveness in that market depends in large measure on our ability to unleash the industrial and economic strengths of this nation.

To focus our attention on energy education for the young—in both public and private schools, and at all grade levels—and in an effort to bring together teachers, school officials, and parent groups to help our children understand

our domestic and international energy situation now and in the future, the 97th Congress has by Senate Joint Resolution 84 proclaimed March 19, 1982, as National Energy Education Day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby call upon all citizens and government officials to observe Friday, March 19, 1982, as National Energy Education Day with appropriate ceremonies and activities. I direct all agencies of the Federal government to cooperate with and participate in the celebration of National Energy Education Day.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of March, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-7011
Filed 3-11-82; 11:22 am]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 285

[Amendment Number 209]

Commonwealth of Puerto Rico Nutrition Assistance Grant

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule; request for comments.

SUMMARY: This rule implements a nutrition assistance grant to replace the Food Stamp Program in the Commonwealth of Puerto Rico in accordance with the 1981 Omnibus Budget Reconciliation Act. As required by that law, this grant is to take effect on July 1, 1982.

DATE: This interim rule is effective March 12, 1982. Comments must be received by April 12, 1982.

ADDRESS: Comments should be submitted to the Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302; (703) 756–3429. The Regulatory Impact Analysis is available on request from Mr. O'Connor.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1. The Department has determined that this rule constitutes a major rule due to the size of the grant. The amount of monies authorized to be appropriated for the grant are not to exceed $825 million for each fiscal year through 1984.

In addition, this rule may result in an increase in costs to State (Commonwealth) or local government agencies in the Commonwealth of Puerto Rico; however, the result cannot be determined until after the Commonwealth of Puerto Rico has submitted its plan of operation under the grant. The rule will not result in a major increase in costs or prices for consumers or individuals and will not have a significant adverse effect on competition, employment, productivity, investment, or foreign trade. Further, this rule is unrelated to the ability of United States-based enterprises to compete with foreign-based enterprises. Since this rule constitutes a major rule, a Regulatory Impact Analysis has been written and is available to all interested parties. Moreover, pursuant to section 4(a) of E.O. 12291, the Department has determined that the rule is within the authority delegated by law and consistent with Congressional intent.

The Department of Agriculture has also determined, in accordance with 5 U.S.C. 553(b)(1)(B), that notice of proposed rulemaking and public comment procedures prior to the effective date of this rule are impracticable. In order to receive grant funds this year and in fiscal year 1983, the Commonwealth of Puerto Rico must submit to the Secretary of Agriculture, by April 1, 1982, a plan of operation for the provision of nutrition assistance. Since this rule will specify what must be included in the plan, it is essential that the rule be implemented as quickly as possible to allow the Commonwealth of Puerto Rico ample time to prepare and submit a plan of operation.

Finally, this rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96–354. The Administrator of the Food and Nutrition Service has certified that this action will have a broad but minor economic impact on a substantial number of small entities. The action will implement that provision of the 1981 Omnibus Budget Reconciliation Act which converts the Federal Food Stamp Program in the Commonwealth of Puerto Rico to a nutrition assistance grant. The State and local welfare agencies will be affected to the extent that they administer the current program. The Department has determined that the potential impact on retail food sales will depend on the manner in which the Commonwealth of Puerto Rico chooses to administer the block grant. The government of the Commonwealth of Puerto Rico may choose, among other program options, to replace the present Food Stamp Program in the Commonwealth of Puerto Rico with a cash income-support program, or to retain a local food stamp program similar to the present operation.

Background

Congress has expressed concern regarding the size and expense of the Food Stamp Program in the Commonwealth of Puerto Rico and the dislocating effect the massive flow of food stamps may have on the Puerto Rican economy (Senate Report No. 97–128, 97th Congress, 1st Session, p. 78 (1981)).

In response to these concerns, the Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97–35, 95 Stat. 357) provides for the conversion of the Food Stamp Program in the Commonwealth of Puerto Rico to a nutrition assistance grant effective July 1, 1982.

Funding

The Commonwealth of Puerto Rico may receive up to $206.5 million for the last quarter of fiscal year 1982 and up to $825 million for each fiscal year thereafter. The legislative provisions establishing the grant provide funding for 100 percent of food assistance benefit costs and 50 percent of the administrative expenses related to the provision of food assistance. This rule incorporates these statutory limitations and provides that payments will be made to the Commonwealth of Puerto Rico on a monthly basis using a letter of credit; such sums are to be drawn down on an as-needed basis (Treasury Fiscal Requirement Manual, Volume I, Part 6, Section 2030). Payments will be based on estimates of monthly program expenditures contained in a plan of operation submitted for FNS approval by the Commonwealth of Puerto Rico.

Payments cannot exceed the total cost of the program even if that cost is less than the maximum allowable grant. The statute permits adjustment to the payment if the Secretary determines that a prior overpayment or underpayment has been made, and the proposed rule lists funds that may be considered overpayments.

This rule provides that payment may be contingent in whole or in part upon compliance by the Commonwealth of Puerto Rico with the requirements concerning an approved plan of operation, an audit of expenditures, and a fiscal statement.

Plan of Operation

The legislation gives the Commonwealth of Puerto Rico considerable flexibility in designing a food assistance program. However, to receive payments in any fiscal year, the Commonwealth of Puerto Rico must submit a plan of operation for its program. The statute requires that the initial plan, covering the last quarter of Fiscal Year 1982 and Fiscal Year 1983, be submitted to FNS no later than April 1, 1982. Subsequently, a plan must be submitted by July 1 of each year for the program of the following fiscal year, and the Secretary must approve or disapprove the plan by August 1 of the year in which it is submitted.

Under this rule, the plan of operation shall include the following information. (1) The name of the agency which will be responsible for the administration of the nutrition assistance program. (2) A description and an assessment of the food and nutrition needs of needy persons residing in the Commonwealth of Puerto Rico appropriate to demonstrate that the nutrition assistance program is directed at the most needy persons in the Commonwealth of Puerto Rico. (3) A general description of the assistance to be provided, who will receive benefits, and the persons and the agencies that will provide the assistance. (4) A budget and cost estimate of the expenditures necessary for the provision of assistance. (5) Other reasonably related information requested by FNS. (6) The plan of operation must also contain an assurance that the Commonwealth of Puerto Rico agrees to conduct the nutrition assistance program in accordance with the plan of operation and in compliance with all pertinent Federal rules and regulations.

The Conference Report on the Omnibus Budget Reconciliation Act of 1981 provides that "it would be permissible to employ a small proportion of the block grant funds to finance projects that the government of the Commonwealth believes likely to improve or stimulate agriculture, food production, and food distribution (e.g., food cooperatives, local markets, or farming techniques) which will increase the self-sufficiency and nutritional standard of needy citizens residing in the Commonwealth." (H.R. Rep. No. 97–208, 97th Cong., 1st Sess., 656–657 (1981)). Under this rule, should the Commonwealth of Puerto Rico choose to establish such projects, the plan of operation should demonstrate that such projects are indeed directly related to improvements in the nutritional status of the needy.

This rulemaking also provides for the annual updating of the plan of operation and requires the Commonwealth of Puerto Rico to submit any amendments to the plan to FNS for approval.

Approval

Pursuant to provisions of the legislation, this rulemaking allows FNS to approve, approve contingently or disapprove any plan of operation submitted by the Commonwealth of Puerto Rico. FNS approval of the plan of operation will be based on an assessment that the nutrition assistance program, as defined in the plan of operation, is sufficient to permit analysis and review; reasonably targeted to the most needy persons as defined in the plan of operation; supported by an assessment of the food and nutrition needs of needy persons; and reasonable in terms of the funds requested.

Based on the statute, this rule provides that once a plan of operation is approved grant funds will be provided. If a plan of operation is disapproved, the Commonwealth of Puerto Rico will be advised of problem areas and of actions necessary to secure approval, and that payments will not be made until the plan is approved. If a plan of operation is contingently approved, grant funds will be provided only for the part or parts of the plan of operation receiving approval. The Commonwealth of Puerto Rico will be advised of problem areas and of the actions necessary for full plan approval.

Records and Reports

Legislation does not require that the Commonwealth of Puerto Rico provide FNS with any particular systematic program reports. However, the legislation does require that FNS review the program established under the block grant. The specific recordkeeping and reporting requirements will be negotiated between FNS and the Commonwealth of Puerto Rico consistent with the plan of operation. Such reports and records shall be prepared in accordance with Uniform Federal Assistance Regulations (7 CFR Part 3015) published at 46 FR 55636, November 10, 1981.

Audits

Legislation requires the Commonwealth of Puerto Rico to conduct biennial audits of expenditures and report the results of such audits to the Department not later than 120 days after the end of the fiscal year in which the audit is made. This rule provides for an audit once every two years by the Commonwealth of Puerto Rico to be carried out in accordance with the procedures detailed in the Uniform Federal Assistance Regulations. Additionally, in accordance with the statute, this rulemaking requires that the Commonwealth of Puerto Rico annually report to FNS whether grant payments exceeded program expenditures.

Failure To Comply

This rule, in accordance with the legislation, provides that if the Commonwealth of Puerto Rico fails to modify a disapproved plan of operation, comply with the plan of operation, conduct and submit a biennial audit, or submit a yearly fiscal statement, FNS may take action to withhold or deny grant funds. The Secretary may also ask the Attorney General to seek injunctive relief in cases of non-compliance with the plan of operation or failure to conduct and submit the biennial audit or yearly fiscal statement.

Review

The legislation requires the Department to review the Commonwealth of Puerto Rico's nutrition assistance program to ensure that the program is being managed in accordance with the plan of operation and accepted standards of financial management. When the exact design of the nutrition assistance program is decided, the nature and extent of the review will be determined by FNS. This rulemaking, therefore, provides for FNS review in very general terms.

Technical Assistance

The Secretary may provide technical assistance to the Commonwealth of Puerto Rico with respect to the block grant program. This rulemaking states that technical assistance may be provided by FNS to aid the Commonwealth of Puerto Rico in the development of the plan of operation, implementation of the program and management of grant funds.

For the reasons set forth in the preamble, Part 285 is added, to read as follows:

PART 285—PROVISION OF A NUTRITION ASSISTANCE GRANT FOR THE COMMONWEALTH OF PUERTO RICO

Sec.

Authority: 90 Stat. 263–279 (48 U.S.C. 1681 note.) 91 Stat. 958 (7 U.S.C. 2011–2027).

§ 285.1 General purpose and scope.

This part describes the general terms and conditions under which grant funds shall be provided by the Food and Nutrition Service (FNS) to the government of the Commonwealth of Puerto Rico for the purpose of designing and conducting a nutrition assistance program for needy persons. The Commonwealth of Puerto Rico is authorized to establish eligibility and benefit levels for the nutrition assistance program. In addition, with FNS approval, the Commonwealth of Puerto Rico may employ a small proportion of the grant funds to finance projects that the Commonwealth of Puerto Rico believes likely to improve or stimulate agriculture, food production, and food distribution.

§ 285.2 Funding.

(a) FNS shall, consistent with the plan of operation required by § 285.3 of this part, and subject to availability of funds, provide nutrition assistance grant funds to the Commonwealth of Puerto Rico to cover 100 percent of the expenditures related to food assistance provided to needy persons and 50 percent of the administrative expenses related to the food assistance. The amount of the grant funds provided to the Commonwealth of Puerto Rico shall not exceed $825,000,000 for each fiscal year except that the amount payable to Puerto Rico for final quarter of fiscal year 1982 shall be $206,500,000.

(b) FNS shall, subject to the provisions in subsections 285.4 and 285.7 in this part, and limited by the provisions of paragraph (a) of this subsection, pay to the Commonwealth of Puerto Rico for the applicable fiscal year, the amount estimated by the Commonwealth of Puerto Rico pursuant to § 285.3(b)(4). Payments shall be made no less frequently than on a monthly basis prior to the beginning of each month consistent with the Treasury Fiscal Requirement Manual, Volume I, part 6, section 2030; these letters of credit shall be drawn on an as-needed basis. The amount shall be reduced or increased to the extent of any prior overpayment or underpayment which FNS determines has been made and which has not been previously adjusted. The payment(s) received by the Commonwealth of Puerto Rico for a fiscal year shall not exceed the total authorized for the grant, or the total cost for the nutrition assistance program eligible for funding, whichever is less, for that fiscal year.

(c) FNS may recover from the Commonwealth of Puerto Rico, through offsets to funding during any fiscal year, funds previously paid to the Commonwealth of Puerto Rico and later determined by the Secretary to have been overpayments. Funds which may be recovered include, but are not limited to:

(1) Costs not included in the approved plan of operation;

(2) Unallowable costs discovered in audit or investigation findings;

(3) Funds allocated to the Commonwealth of Puerto Rico which exceeded expenditures during the fiscal year for which the funds were authorized; or

(4) Amounts owed to FNS as a result of the nutrition assistance grant which have been billed to the Commonwealth of Puerto Rico and which the Commonwealth of Puerto Rico has failed to pay without cause acceptable to FNS.

(d) Funds for payment of any prior fiscal year expenditures shall be claimed from the funding for that prior year. The payment of funds shall not exceed the authorization for that prior fiscal year.

§ 285.3 Plan of operation.

(a) To receive payments for any fiscal year the Commonwealth of Puerto Rico shall have a plan of operation for that fiscal year approved by FNS. The Commonwealth of Puerto Rico shall submit the initial plan of operation, for fiscal years 1982 and 1983, no later than April 1, 1982. Each subsequent plan of operation shall be submitted for FNS approval by the July 1 preceding the fiscal year for which the plan of operation is to be effective.

(b) The plan of operation shall include the following information:

(1) Designation of a single agency which shall be responsible for administration, or supervision of the administration, of the nutrition assistance program.

(2) A description of the needy persons residing in the Commonwealth of Puerto Rico and an assessment of the food and nutrition needs of these persons. The description and assessment shall demonstrate that the nutrition assistance program is directed toward the most needy persons in the Commonwealth of Puerto Rico.

(3) A description of the program for nutrition assistance including:

(i) a general description of the nutrition assistance to be provided the needy persons who will receive assistance, and any agencies designated to provide such assistance;

(ii) to the extent grant funds are not used for direct nutrition assistance payments to needy persons, the plan of operation must demonstrate that the grant funds will provide nutrition assistance benefiting needy persons in the Commonwealth of Puerto Rico.

(4) A budget and an estimate of the monthly amounts of expenditures necessary for the provision of the nutrition assistance and related administrative expenses up to the monthly amounts provided for payment in § 285.2.

(5) Other reasonably related information which FNS may request.

(6) An agreement signed by the governor or designee of the governor to conduct the nutrition assistance program in accordance with the FNS-approved plan of operation and in compliance with all pertinent Federal rules and regulations.

The Commonwealth of Puerto Rico shall also agree to comply with any changes in Federal law and regulations.

(c) Any amendments to the plan of operation must be submitted to FNS for approval.

§ 285.4 Approval.

(a) FNS shall approve or disapprove the initial plan of operation for fiscal years 1982 and 1983 no later than 30 days from the date the Commonwealth of Puerto Rico submits such plan. Thereafter, FNS shall approve or disapprove any plan of operation no later than August 1 of the year of its submission. FNS approval of the plan of operation shall be based on an assessment that the nutrition assistance program, as defined in the plan of operation, is:

(1) Sufficient to permit analysis and review;

(2) Reasonably targeted to the most needy persons as defined in the plan of operation;

(3) Supported by an assessment of the food and nutrition needs of needy persons;

(4) Reasonable in terms of the funds requested;

(5) Structured to include safeguards to prevent fraud, waste, and abuse in the use of grant funds; and

(6) Consistent with all applicable Federal laws.

(b) FNS shall approve or disapprove any amendments to the plan of operation.

If FNS fails either to approve or deny the amendment, or to request additional information within 30 days, the amendment to the plan of operation is approved. If additional information is requested, the Commonwealth of Puerto Rico shall provide this as soon as possible, and FSN shall approve or deny the amendment to the plan of operation. Payment schedules and other program operations may not be altered until an amendment to the plan of operation is approved.

(c) FNS may approve part of any plan of operation or amendment submitted by the Commonwealth of Puerto Rico contingent on appropriate action by the Commonwealth of Puerto Rico with respect to the problem areas in the plan of operation.

(d) If all or part of the plan of operation is disapproved, FNS shall notify the appropriate agency in the Commonwealth of Puerto Rico of the problem area(s) in the plan of operation and the actions necessary to secure approval.

(e) In accordance with the provisions of § 285.7, funds may be withheld or denied when all or part of a plan of operation is disapproved.

§ 285.5 Records and reports.

The Commonwealth of Puerto Rico shall follow procedures, and maintain and submit to FNS such records and reports, as agreed upon by the Commonwealth of Puerto Rico and FNS, for the nutrition assistance program as outlined in the plan of operation. Such records and reports shall, at a minimum, be prepared in accordance with Part 3015 of this title.

§ 285.6 Audits.

(a) The Commonwealth of Puerto Rico shall provide an audit of expenditures in compliance with the requirements in Part 3015 of this title at least once every two years. The findings of such audit shall be reported to FNS not later than 120 days from the end of each fiscal year in which the audit is made.

(b) Within 120 days of the end of each fiscal year, the Commonwealth of Puerto Rico shall provide FNS with a statement of: (1) whether the grant funds received for that fiscal year exceeded the valid obligations made that year for which payment is authorized, and if so, by how much, and (2) such additional related information as FNS may require.

§ 285.7 Failure to comply.

(a) Grant funds may be withheld in whole or in part, or denied if there is a substantial failure by the Commonwealth of Puerto Rico to comply with the requirements of § 285.6, or to bring into compliance a plan of operation disapproved by FNS, or to comply with program requirements detailed in the plan of operation approved for that fiscal year. (For example, funds shall be paid to the Commonwealth of Puerto Rico to cover only the costs of the part or parts of the plan of operation receiving FNS approval. Withheld payments shall be paid when the unapproved part(s) of the plan are modified and approved.) FNS shall notify the Commonwealth of Puerto Rico that further payments shall not be made until FNS is satisfied that there will no longer be any such failure to comply.

(b) Upon a finding of a substantial failure to comply with the requirements of § 285.6 or the plan of operation, FNS may, in addition to or in lieu of actions taken in accordance with paragraph (a) of this section, refer the matter to the Attorney General with a request that injunctive relief be sought from the appropriate district court of the United States to require compliance with these regulations by the Commonwealth of Puerto Rico.

§ 285.8 Review.

FNS shall provide for the review of the programs for provision of nutrition assistance for which payments are made under Part 285.

§ 285.9 Technical assistance.

FNS may provide technical assistance to the Commonwealth of Puerto Rico to assist in the development of the plan of operation, or in the operation of the program detailed in the plan of operation, or to help provide for responsible management of the funds provided or made available to Puerto Rico for nutrition assistance.

(91 Stat. 958 (7 U.S.C. 2011–2027))

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

Dated: March 4, 1982.

Mary Jarratt,

Assistant Secretary.

[FR Doc. 82-6591 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Part 724

Fire-Cured, Dark Air-Cured, Virginia Sun-Cured, Cigar-Binder (Types 51 and 52) Cigar-Filler and Binder (Types 42, 43, 44, 53, 54 and 55) Tobacco Acreage Allotment Regulations; Identification of Kinds of Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to implement the provisions of section 320 of the Agricultural Adjustment Act of 1938, as amended by section 1108 of the Agriculture and Food Act of 1981 (Pub. L. 97–98) with respect to nonquota tobacco. With certain exceptions, nonquota tobacco which is produced in a State where marketing quotas are in effect for a kind of tobacco will be subject to the marketing quota for such kind of tobacco. These provisions are applicable beginning with the 1982 crop of tobacco. This interim rule implements the provisions of section 320 of the Act, as amended, and makes certain other clarifying language changes relating to the identification of tobacco.

EFFECTIVE DATE: March 12, 1982. Comments are due on or before May 11, 1982.

ADDRESS: Send written comments to James M. Davis, Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Program Specialist, (202) 447–4281. The Final Regulatory Impact Analysis describing the impact of implementing the rule is available upon request from Mr. Millner.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum No. 1521–1 and has been classified as "not major". The provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, industries, Federal, State or local government, or a geographical region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based

enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases, Number: 10.051. This interim rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this interim rule.

James M. Davis, Director, Tobacco and Peanuts Division, ASCS, has determined that an emergency exists which warrants publication of this interim rule without prior opportunity for public comment. This interim rule is necessary to implement section 320 of the Agricultural Adjustment Act of 1938 (hereinafter referred to as the "1938 Act") which was amended by the Agriculture and Food Act of 1981 (Pub. L. 97-98) effective with respect to the 1982 and subsequent crops of tobacco.

Producers of tobacco are now in the process of purchasing seed and making other production plans for the 1982 crop year. Because producers of tobacco need to be informed of this interim rule as soon as possible, this interim rule shall become effective upon date of publication in the **Federal Register** without prior public comment. However, the public is invited to comment on this interim rule for a period of 60 days after its publication in the **Federal Register**. A final document discussing comments received and any amendment of this interim rule which may be required will be published in the **Federal Register** as soon as possible.

Section 320 of the 1938 Act was originally enacted in 1974 and is designed to preserve the effectiveness of the tobacco program by discouraging the production of tobacco not under quota in areas of the nation where tobacco farmers have elected to comply with marketing quotas.

Section 320 of the 1938 Act was amended by section 1108 of the Agriculture and Food Act of 1981 to provide that any nonquota tobacco produced in an area where quotas for any kind of tobacco are in effect shall be considered as a quota kind. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of tobacco produced in the area having the highest price support under the Agricultural Act of 1949, as amended.

While section 320 refers to tobacco produced in an "area" when identifying different kinds of tobacco, the Conference Report which accompanied S. 884, the bill which became the Agriculture and Food Act of 1981, stated as follows:

> "The conferees intend that the Secretary, in implementing section 320, construe the term 'area' to mean the entire State in which any kind of quota tobacco is produced. This construction will avoid the disruption caused by the production of nonquota tobacco in States where producers have approved marketing quotas and will help ensure the effectiveness of the tobacco program in those States." (See Senate Report No. 97-377, 97th Cong., 1st Sess., p. 192 (1981)).

Thus, the regulations at 7 CFR 724.79 relating to the identification of kinds of tobacco have been amended to specify that the term "area" shall mean the entire State in which any kind of quota tobacco is produced.

Also, the amendments made by the 1981 Act specify that certain tobacco is not subject to the provisions of section 320. One example is tobacco which is produced in any State where marketing quotas are in effect when such tobacco is represented to be nonquota tobacco and such tobacco is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco. Other tobaccos which are not subject to the provisions of section 320 include the following: (1) Maryland (type 32) tobacco when it is nonquota tobacco and produced in a quota State on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for that kind of tobacco were last in effect (1965); and (2) certain types of cigar-filler and cigar-wrapper tobaccos that have never been under quota but are produced within a State where marketing quotas for other kinds of tobacco are in effect.

In addition, certain clarifying language changes were made in the regulations at 7 CFR 724.79(a) with respect to the identification of kinds of tobacco subject to quota.

Interim Rule

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) TOBACCO

Accordingly, the regulations at 7 CFR 724.79 are revised to read as follows:

§ 724.79 Identification of tobacco subject to quota.

(a) Except as provided in subsections (b) and (c) of this section, any tobacco which is determined by a representative of the State committee or county committee to have the same appearance and characteristics as a kind of tobacco for which marketing quotas are in effect shall be deemed to be a quota kind of tobacco. Such tobacco shall continue to be deemed a quota kind until it has been certified by the Agricultural Marketing Service, U.S. Department of Agriculture, under the Tobacco Inspection Act (7 U.S.C. 511) and implementing regulations (7 CFR Part 29), prior to removal of the tobacco from the State where it was produced, as a kind of tobacco not subject to marketing quotas.

(b) Effective with respect to the 1982 and subsequent crops of tobacco, any kind of tobacco for which marketing quotas are not in effect that is produced in a State where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that State. If marketing quotas are in effect in a State for more than one kind of quota tobacco, nonquota tobacco produced in the State shall be subject to the quota for the kind of quota tobacco produced in the State having the highest price support under the Agricultural Act of 1949.

(c) Subsection (b) of this section shall not apply to—(1) Maryland (type 32) tobacco when it is nonquota tobacco and produced on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for such kind of tobacco were last in effect (1965); (2) cigar-filler (type 41) tobacco when it is nonquota tobacco and produced in Pennsylvania; (3) cigar-wrapper (type 61) tobacco when it is nonquota tobacco and produced in Connecticut or Massachusetts, and to cigar-wrapper (type 62) tobacco when it is nonquota tobacco and produced in Georgia or Florida; and (4) tobacco produced in a quota State that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards

issued by the Secretary for the inspection and identification of tobacco. Such inspection shall be made prior to removal of the tobacco from the State where it was produced.

(Sec. 301, 313, 314, 320, 372, 375, 377, 52 Stat. 38, as amended, 88 Stat. 1089, as amended, (7 U.S.C. 1301, 1313, 1314, 1314(f), 1372–1375).)

Signed in Washington, D.C. on March 9, 1982.

Everett Rank,

Adminstrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-6724 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-05-M

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7 CFR Part 725

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations; Identification of Kinds of Tobacco

AGENCY: Agricultural Stabilization and Conservation Service (USDA).

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to implement the provisions of section 320 of the Agricultural Adjustment Act of 1938, as amended by section 1108 of the Agriculture and Food Act of 1981 (Pub. L. 97–98) with respect to nonquota tobacco. With certain exceptions, nonquota tobacco which is produced in a State where marketing quotas are in effect for a kind of tobacco will be subject to the marketing quota for such kind of tobacco. These provisions are applicable beginning with the 1982 crop of tobacco. This interim rule implements the provisions of section 320 of the Act, as amended, and makes certain other clarifying language changes relating to the identification of tobacco.

EFFECTIVE DATE: March 12, 1982. Comments are due May 11, 1982.

ADDRESS: Send written comments to James M. Davis, Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Program Specialist, (202) 447–2715. The Final Regulatory Impact Analysis describing the impact of implementing the rule is available upon request from Mr. Burgess.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum No. 1521–1 and has been classified as "not major". The provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, industries, Federal, State or local government, or a geographical region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases, Number: 10.051. This interim rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this interim rule.

James M. Davis, Director, Tobacco and Peanuts Division, ASCS, has determined that an emergency exists which warrants publication of this interim rule without prior opportunity for public comment. This interim rule is necessary to implement section 320 of the Agricultural Adjustment Act of 1938 (hereinafter referred to as the "1938 Act") which was amended by the Agriculture and Food Act of 1981 (Pub. L. 97–98) effective with respect to the 1982 and subsequent crops of tobacco.

Producers of tobacco are now in the process of purchasing seed and making other production plans for the 1982 crop year. Because producers of tobacco need to be informed of this interim rule as soon as possible, this interim rule shall become effective upon date of publication in the **Federal Register** without prior public comment. However, the public is invited to comment on this interim rule for a period of 60 days after its publication in the **Federal Register**. A final document discussing comments received and any amendment of this interim rule which may be required will be published in the **Federal Register** as soon as possible.

Section 320 of the 1938 Act was originally enacted in 1974 and is designed to preserve the effectiveness of the tobacco program by discouraging the production of tobacco not under quota in areas of the nation where tobacco farmers have elected to comply with marketing quotas.

Section 320 of the 1938 Act was amended by section 1108 of the Agriculture and Food Act of 1981 to provide that any nonquota tobacco produced in an area where quotas for any kind of tobacco are in effect shall be considered as a quota kind. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of tobacco produced in the area having the highest price support under the Agricultural Act of 1949, as amended.

While Section 320 refers to tobacco produced in an "area" when identifying different kinds of tobacco, the Conference Report which accompanied S. 884, the bill which became the Agriculture and Food Act of 1981, stated as follows:

> "The conferees intend that the Secretary, in implementing section 320, construe the term 'area' to mean the entire State in which any kind of quota tobacco is produced. This construction will avoid the disruption caused by the production of nonquota tobacco in States where producers have approved marketing quotas and will help ensure the effectiveness of the tobacco program in those States." (See Senate Report No. 97–377, 97th Cong., 1st Sess., p. 192 (1981)).

Thus, the regulations at 7 CFR 725.85 relating to the identification of kinds of tobacco have been amended to specify that the term "area" shall mean the entire State in which any kind of quota tobacco is produced.

Also, the amendments made by the 1981 Act specify that certain tobacco is not subject to the provisions of section 320. One example is tobacco which is produced in any State where marketing quotas are in effect when such tobacco is represented to be nonquota tobacco and such tobacco is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco. Other tobaccos which are not subject to the provisions of section 320 include the following: (1) Maryland (type 32) tobacco when it is nonquota tobacco and produced in a quota State on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for that kind of tobacco were last in effect (1965); and (2) certain types of cigar-filler and cigar-wrapper tobaccos that have never been under quota but are produced within a State where marketing quotas for other kinds of tobacco are in effect.

In addition, certain clarifying language changes were made in the regulations at 7 CFR 725.85(a) with respect to the identification of kinds of tobacco subject to quota.

Interim Rule

PART 725—FLUE-CURED TOBACCO

Accordingly, the regulations at 7 CFR 725.85 are revised to read as follows:

§ 725.85 Identification of tobacco subject to quota.

(a) Except as provided in subsections (b) and (c) of this section, any tobacco which is determined by a representative of the State committee or county committee to have the same appearance and characteristics as a kind of tobacco for which marketing quotas are in effect shall be deemed to be a quota kind of tobacco. Such tobacco shall continue to be deemed a quota kind until it has been certified by the Agricultural Marketing Service, U.S. Department of Agriculture, under the Tobacco Inspection Act (7 U.S.C. 511) and implementing regulations (7 CFR Part 29), prior to removal of the tobacco from the State where it was produced, as a kind of tobacco not subject to marketing quotas.

(b) Effective with respect to the 1982 and subsequent crops of tobacco, any kind of tobacco for which marketing quotas are not in effect that is produced in a State where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that State. If marketing quotas are in effect in a State for more than one kind of quota tobacco, nonquota tobacco produced in the State shall be subject to the quota for the kind of quota tobacco produced in the State having the highest price support under the Agricultural Act of 1949.

(c) Subsection (b) of this section shall not apply to—(1) Maryland (type 32) tobacco when it is nonquota tobacco and produced on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for such kind of tobacco were last in effect (1965); (2) cigar-filler (type 41) tobacco when it is nonquota tobacco and produced in Pennsylvania; (3) cigar-wrapper (type 61) tobacco when it is nonquota tobacco and produced in Connecticut or Massachusetts, and to cigar-wrapper (type 62) tobacco when it is nonquota tobacco and produced in Georgia or Florida; and (4) tobacco produced in a quota State that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco. Such inspection shall be made prior to removal of the tobacco from the State where it was produced.

(Sec. 301, 313, 314, 320, 317, 372, 375, 377, 52 stat. 38, as amended, 88 stat. 1089, as amended, (7 U.S.C. 1301, 1313, 1314, 1314c, 1314(f), 1372, 1375))

Signed in Washington, D.C. on March 9, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-6722 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-05-M

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7 CFR Part 726

Burley Tobacco Marketing Quota Regulations; Identification of Kinds of Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to implement the provisions of section 320 of the Agricultural Adjustment Act of 1938, as amended by section 1108 of the Agriculture and Food Act of 1981 (Pub. L. 97–98) with respect to nonquota tobacco. With certain exceptions, nonquota tobacco which is produced in a State where marketing quotas are in effect for a kind of tobacco will be subject to the marketing quota for such kind of tobacco. These provisions are applicable beginning with the 1982 crop of tobacco. This interim rule implements the provisions of section 320 of the Act, as amended, and makes certain other clarifying language changes relating to the identification of tobacco.

EFFECTIVE DATE: March 12, 1982. Comments are due May 11, 1982.

ADDRESS: Send written comments to James M. Davis, Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Program Specialist, (202) 447–4281. The Final Regulatory Impact Analysis describing the impact of implementing the rule is available upon request from Mr. Millner.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum No. 1521–1 and has been classified as "not major." The provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, industries, Federal, State or local government, or a geographical region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases, Number: 10.051. This interim rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this interim rule.

James M. Davis, Director, Tobacco and Peanuts Division, ASCS, has determined that an emergency exists which warrants publication of this interim rule without prior opportunity for public comment. This interim rule is necessary to implement section 320 of the Agricultural Adjustment Act of 1938 (hereinafter referred to as the "1938 Act") which was amended by the Agriculture and Food Act of 1981 (Pub. L. 97–98) effective with respect to the 1982 and subsequent crops of tobacco.

Producers of tobacco are now in the process of purchasing seed and making other production plans for the 1982 crop year. Because producers of tobacco need to be informed of this interim rule as soon as possible, this interim rule shall become effective upon date of publication in the **Federal Register** without prior public comment. However, the public is invited to comment on this interim rule for a period of 60 days after its publication in the **Federal Register**. A final document discussing comments received and any amendment of this interim rule which may be required will be published in the **Federal Register** as soon as possible.

Section 320 of the 1938 Act was originally enacted in 1974 and is designed to preserve the effectiveness of the tobacco program by discouraging the production of tobacco not under quota

in areas of the nation where tobacco farmers have elected to comply with marketing quotas.

Section 320 of the 1938 Act was amended by section 1108 of the Agriculture and Food Act of 1981 to provide that any nonquota tobacco produced in an area where quotas for any kind of tobacco are in effect shall be considered as a quota kind. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of tobacco produced in the area having the highest price support under the Agricultural Act of 1949, as amended.

While section 320 refers to tobacco produced in an "area" when identifying different kinds of tobacco, the Conference Report which accompanied S. 884, the bill which became the Agriculture and Food Act of 1981, stated as follows:

"The conferees intend that the Secretary, in implementing section 320, construe the term 'area' to mean the entire State in which any kind of quota tobacco is produced. This construction will avoid the disruption caused by the production of nonquota tobacco in States where producers have approved marketing quotas and will help ensure the effectiveness of the tobacco program in those States." (See Senate Report No. 97-377, 97th Cong., 1st Sess., p. 192 (1981)).

Thus, the regulations at 7 CFR 726.80 relating to the identification of kinds of tobacco have been amended to specify that the term "area" shall mean the entire State in which any kind of quota tobacco is produced.

Also, the amendments made by the 1981 Act specify that certain tobacco is not subject to the provisions of section 320. One example is tobacco which is produced in any State where marketing quotas are in effect when such tobacco is represented to be nonquota tobacco and such tobacco is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco. Other tobaccos which are not subject to the provisions of section 320 include the following: (1) Maryland (type 32) tobacco when it is nonquota tobacco and produced in a quota State on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for that kind of tobacco were last in effect (1965); and (2) certain types of cigar-filler and cigar-wrapper tobaccos that have never been under quota but are produced within a State where marketing quotas for other kinds of tobacco are in effect.

In addition, certain clarifying language changes were made in the regulations at 7 CFR 726.80(a) with respect to the identification of kinds of tobacco subject to quota.

Interim Rule

PART 726—BURLEY TOBACCO

Accordingly, the regulations at 7 CFR 726.80 are revised to read as follows:

§ 726.80 Identification of tobacco subject to quota.

(a) Except as provided in subsections (b) and (c) of this section, any tobacco which is determined by a representative of the State committee or county committee to have the same appearance and characteristics as a kind of tobacco for which marketing quotas are in effect shall be deemed to be a quota kind of tobacco. Such tobacco shall continue to be deemed a quota kind until it has been certified by the Agricultural Marketing Service, U.S. Department of Agriculture, under the Tobacco Inspection Act (7 U.S.C. 511) and implementing regulations (7 CFR Part 29), prior to removal of the tobacco from the State where it was produced, as a kind of tobacco not subject to marketing quotas.

(b) Effective with respect to the 1982 and subsequent crops of tobacco, any kind of tobacco for which marketing quotas are not in effect that is produced in a State where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that State. If marketing quotas are in effect in a State for more than one kind of quota tobacco, nonquota tobacco produced in the State shall be subject to the quota for the kind of quota tobacco produced in the State having the highest price support under the Agricultural Act of 1949.

(c) Subsection (b) of this section shall not apply to—(1) Maryland (type 32) tobacco when it is nonquota tobacco and produced on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for such kind of tobacco were last in effect (1965); (2) cigar-filler (type 41) tobacco when it is nonquota tobacco and produced in Pennsylvania; (3) cigar-wrapper (type 61) tobacco when it is nonquota tobacco and produced in Connecticut or Massachusetts, and to cigar-wrapper (type 62) tobacco when it is nonquota tobacco and produced in Georgia or Florida; and (4) tobacco produced in a quota State that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco. Such inspection shall be made prior to removal of the tobacco from the State where it was produced.

(Sec. 301, 313, 314, 320, 372-375, 52 Stat. 38, as amended, 88 Stat. 1089, as amended, (7 U.S.C. 1301, 1313, 1314, 1314c, 1314(f), 1372-1375))

Signed in Washington, D.C. on March 9, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-6723 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 350 and Lemon Reg. 349, 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 March 14-20, 1982, and increases the quantity of lemons that may be shipped during the period March 7-13, 1982. 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.

EFFECTIVE DATES: The regulation becomes effective March 14, 1982 and the amendment is effective for the period March 7-13, 1982.

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

SUPPLEMENTARY INFORMATION: 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 (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. The committee met again publicly on March 9, 1982, 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 active.

It is further found that it is impracticable and contrary to the public interert 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.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. Section 910.650 is added as follows:

§ 910.650 Lemon regulation 350.

The quantity of lemons grown in California and Arizona which may be handled during the period March 14, 1982, through March 20, 1982, is established at 255,000 cartons.

2. Section 910.649 Lemon Regulation 349 (47 FR 9387) is revised to read as follows:

§ 910.649 Lemon regulation 349.

The quantity of lemons grown in California and Arizona which may be handled during the period the March 7, 1982, through March 13, 1982, is established at 265,000 cartons.

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

Dated: March 11, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 82–7013 Filed 3–11–82; 11:46 am]

BILLING CODE 3410–02–M

7 CFR Part 928

[Termination of Hawaiian Papaya Reg. 12]

Papayas Grown in Hawaii; Termination of Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule terminates size requirements currently in effect for fresh export shipments of Hawaiian papayas. Recent rains in the production area have altered the supply and demand factors upon which these size requirements are based. This action recognizes the current and prospective marketing situation for Hawaiian papayas.

EFFECTIVE DATE: March 8, 1982.

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

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

This final rule is issued under the marketing agreement and Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Papaya Administrative Committee and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

Hawaiian Papaya Regulation 12 currently in effect requires papayas grown in Hawaii shipped to export markets (points outside of Hawaii) to weigh at least 14 ounces but not more than 25 ounces. This regulation was published February 12, 1982, in the **Federal Register** (47 FR 6422), to be effective for the period February 15–April 30, 1982.

The committee met on March 3, 1982, to review crop and market conditions and consider recommendations for modification or termination of size requirements for papayas. The committee reports that heavy rains in the production area have reduced the crop size, and that handlers are having difficulty packing to the size requirements currently in effect. It also reports that the production and shipment level is less than earlier anticipated, and that termination of the size requirements would provide additional supplies to consumers consistent with demand. Therefore, the committee recommended that the size requirements be terminated.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that the time intervening between the date when information upon which this final rule is based became available and the time when this final rule must become effective in order to effectuate the declared policy of the act is insufficient. This final rule terminates regulations on the handling of Hawaiian papayas. It is necessary to effectuate the declared purposes of the act to make this termination effective as specified, and handlers have been apprised of the termination and the effective time.

PART 928—PAPAYAS GROWN IN HAWAII

Therefore, the provisions of § 928.312 Hawaiian Papaya Regulation 12 (47 FR 6422) are hereby terminated.

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

Dated: March 8, 1982, to become effective March 8, 1982.

D. S. Kuryloski,

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

[FR Doc. 82–6784 Filed 3–11–82; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 982

Filberts/Hazelnuts Grown in Oregon and Washington; Revision of Final Free and Restricted Percentages for the 1981–82 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action revises marketing percentages for inshell filberts for the marketing year which began May 1, 1981. The action is taken under the marketing order for filberts/hazelnuts grown in Oregon and Washington to promote orderly marketing conditions for the 1981 crop. It was recommended by the Filbert/Hazelnut Marketing Board which is established under the

marketing order to work with the USDA in administering the program.

EFFECTIVE DATES: May 1, 1981 through April 30, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated nine handlers.

It is found that a situation exists which makes it impractical, unnecessary, and contrary to the public interest to: (a) Allow an opportunity for written public comment on this final rule; and (b) postpone the effective time of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) The percentages revised herein for the 1981–82 marketing year apply to all merchantable filberts handled during that year; (2) this action must be taken promptly to achieve its purpose of making more filberts available for market; (3) handlers are aware of this action as recommended by the Board at an open meeting held February 9, 1982, and require no additional time to comply; and (4) this action relieves restrictions on handlers.

On December 18, 1981, free and restricted percentages of 29 percent and 71 percent were established for the 1981–82 marketing year. These percentages were published in the **Federal Register** on December 23, 1981 (46 FR 62243). This final rule increases the free percentage to 31 percent and decreases the restricted percentage to 69 percent to make 102 percent of the previously established trade demand of 5,043 tons (46 FR 52087) available to the trade for inshell filbert market needs. The initial percentages released 100 percent of that trade demand.

The authority to establish the trade demand, the final free and restricted percentages, and the revision of those percentages is contained in § 982.40 of the marketing agreement and Order No. 982, both as amended (7 CFR Part 982; 46 FR 26037), regulating the handling of filberts/hazelnuts grown in Oregon and Washington. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Pursuant to § 982.40(e), at any time prior to February 15 of the marketing year the Board may recommend to the Secretary revisions in the marketing policy for that year: *Provided,* That in no event shall any revision result in free and restricted percentages which would release more than 110 percent of the inshell trade demand computed for that marketing year. Section 982.40(e) also provides that at any time during the period December 1 through February 10 at the request of two or more handlers who during the preceding marketing year handled at least 10 percent of all filberts handled the Board shall meet to determine whether the marketing policy should be revised.

At the request of two such handlers, the Board met on February 9, 1982. The Board noted that the 1981 crop was less than previously estimated. It also noted that all inshell filberts made available by the current free percentage had been sold to the trade, and that it would be desirable to make an additional quantity of inshell filberts available to handlers. Thus, the Board recommended that 102 percent of the established trade demand be released and that the free and restricted percentages be revised.

In revising the percentages, the Board considered the following supply and demand information for the 1981–82 marketing year:

	Tons	
	Previous estimate Nov. 13, 1982	Revised estimate Feb. 9, 1982
Inshell Supply:		
(1) Total production	15,000	14,330
(2) Less substandard, farm use, etc	1,500	1,433
(3) Merchantable production	13,500	12,897
(4) Plus carryover May 1, 1981, subject to regulation	920	920
(5) Supply subject to regulation (Item 3 plus Item 4)	14,420	13,817
Insell Requirements:		
(6) Trade demand	5,043	5,144
(7) Less carryover May 1, 1981, not subject to regulation	839	839
(8) Adjusted trade demand	4,204	4,305
Percentages:		
(9) Free percentage (Item 8 divided by Item 5)	29	31
(10) Restricted percentage (100 percent minus 29 percent)	71	69

The free percentage prescribes that portion of the total merchantable supply subject to regulation which may be handled as inshell filberts. The restricted percentage prescribes that portion which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Board to be non-competitive with normal market outlets for inshell filberts.

After consideration of all relevant matter presented, the information and recommendation submitted by the Board, and other available information, it is further found that the revision of final free and restricted percentages for the 1981–82 marketing year will tend to effectuate the declared policy of the act.

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

Therefore, § 982.231(b) is revised to read as follows: (The following section will not be published in the Code of Federal Regulations).

§ 982.231 Trade demand and final free and restricted percentages—1981–82 marketing year.

* * * * *

(b) The final free and restricted percentages for merchantable filberts/hazelnuts for the 1981–82 marketing year shall be 31 percent and 69 percent, respectively.

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

Dated: March 9, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-6817 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 316a, 328, 332, 332a, 334, 335, 335b, 336, 339, and 344

Nationality and Naturalization; Revisions Under the Immigration and Nationality Act Amendments; Act of December 29, 1981

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: On December 29, 1981, the President of the United States signed into law the Immigration and Nationality Act Amendments of 1981. The amendments provide streamlined procedures, cancel unnecessary regulations, eliminate character witness requirements for applicants for naturalization, and eliminate the minimum thirty (30) day waiting period for petitions filed in the court before

final disposition. Additionally, active state naturalization courts are permitted to retain an increased share of the petition fees paid. The efficiency measures are of significant benefit to the operation of the Immigration and Naturalization Service by enabling better service to the public. The efficiency measures also provide benefits to the alien population by making naturalization a less difficult and more timely process. This final rule implements the necessary revisions to Immigration and Naturalization Service regulations regarding nationality and naturalization procedures.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633-3048

For Specific Information: Keith C. Williams, Acting Assistant Commissioner, Naturalization, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633-3320

SUPPLEMENTARY INFORMATION: The recent amendments made by the Immigration and Nationality Act Amendments of 1981, Pub. L. 97-116, effective December 29, 1981 (95 Stat. 1611 et seq.), are in part applicable to sections 316, 328, 332, 334, 335, 336, 339, 344 of Title III of the I&N Act and the corresponding regulations. As a result of these legislative changes the following sections of the regulations are removed or amended:

Section 316(b) of the Immigration and Nationality Act, 8 U.S.C. 1427(b) formerly provided for preservation of residence and/or physical presence benefits for naturalization purposes to qualified applicants while employed overseas. The amended Act now extends these benefits to the applicant's spouse and dependent children and 8 CFR 316a.21 is amended to include qualified dependents.

Section 334 of the Immigration and Nationality Act, 8 U.S.C. 1445, establishes the procedures and requirements for filing a petition for naturalization in a court of competent jurisdiction. The amended legislation eliminates the requirement for two United States citizen witnesses to testify as to the character of the applicant and all knowledgeable facts affecting the applicant's eligibility. Accordingly, 8 CFR Part 335b, PROOF OF QUALIFICATIONS FOR NATURALIZATION: WITNESSES; DEPOSITIONS, and § 336.17 Substitution of witnesses, are removed in their entirety. Also, the following sections are amended to remove references to the witness requirements:

PART 328—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WITH THREE YEARS SERVICE IN ARMED FORCES OF THE UNITED STATES

Section 328.2 Service not continuous.
Section 328.3 Petition.

PART 332—PRELIMINARY INVESTIGATION OF APPLICANTS FOR NATURALIZATION AND WITNESSES

Section 332.11 Investigation Preliminary to Filing Petition for Naturalization:
(a) *Scope of Investigation.*
(b) *Conduct of Investigation.*

PART 332a—OFFICIAL FORMS

Section 332a.2 Official forms prescribed for use of clerks of naturalization courts.
Section 332a.13 Alteration of forms of petitions or applications for naturalization.
(b) *Exemption from residence or physical presence in the United States or State.*
(e) *Supplemental affidavits filed with petition for naturalization.*

PART 334—PETITION FOR NATURALIZATION

Section 334.2 Oath or affirmation of petitioner (and witnesses).
Section 334.11 Petition for naturalization and preliminary application.
Section 334.21 Verification of petition for naturalization; administration of oath.

PART 335—PRELIMINARY EXAMINATION ON PETITIONS FOR NATURALIZATION

Section 335.11 Preliminary examination pursuant to section 335(b) of the Immigration and Nationality Act.
(a) *When Held.*
(b) *Conduct of Examination.*

PART 336—PROCEEDINGS BEFORE NATURALIZATION COURT

Section 336.11 Personal representation of Government at naturalization proceedings.

PART 339—FUNCTIONS AND DUTIES OF CLERKS OF NATURALIZATION COURTS

Section 339.1 Administration of oath to declarations of intention and petitions for naturalization.

Formerly, under section 336(c) of the Immigration and Nationality Act, 8 U.S.C. 1447(c), petitioners had a waiting period of thirty days from the date the petition was filed until the date of final hearing. The amendment to the Act repeals this waiting period. Accordingly, 8 CFR 336.16 Final hearing; waiver of 30-day period, is repealed in its entirety.

Finally, section 344(c) of the Immigration and Nationality Act, 8 U.S.C. 1455(c), has been amended to increase the amount of fees permitted to be retained by local and state courts. Formerly, this section of the Act permitted the courts to retain one-half of all naturalization fees collected up to $6,000 in any fiscal year. The amended Act now allows these courts to retain one-half of all fees collected up to $40,000; therefore, in 8 CFR Part 344—Fees Collected By Clerks of Courts, § 344.3, fees in other than United States courts; remittances, is amended to reflect this increase in fees to be retained by the courts.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is not necessary and is contrary to the public interest as all revisions to the regulations are required by Pub. L. 97-116 dated December 29, 1981 (95 Stat. 1611 et seq.).

In accordance with 5 U.S.C. 605(b) the Commissioner of the Immigration and Naturalization Service certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This rule is exempt from the procedures prescribed under E.O. 12291 because the revisions are mandated by the amendment to the Immigration and Nationality Act by the Immigration and Nationality Act Amendments of 1981, effective December 29, 1981.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 316a—RESIDENCE, PHYSICAL, PRESENCE AND ABSENCE

1. In § 316a.21, a new paragraph (d) is added to read as follows:

§ 316a.21 Application for benefits with respect to absences; appeal.

* * * * *

(d) Approval of Form N-470 under section 316(b) of the Act shall cover the spouse and unmarried dependents of the applicant who are residing abroad as members of the applicant's household during the period covered by the application. Form N-472 shall be notated to identify those family members so covered.

(Sec. 316 of the I&N Act, as amended; 8 U.S.C. 1426)

PART 328—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WITH THREE YEARS SERVICE IN ARMED FORCES OF THE UNITED STATES

2. Section 328.2 is amended to read as follows:

§ 328.2 Service not continuous.

A person of the class described in section 328(c) of the Act whose service aggregating three years was not continuous shall establish the qualifications prescribed in that section

during the periods when not serving in the armed forces.

3. Section 328.3 is amended to read as follows:

§ 328.3 Petition.

A person of the class described in section 328 of the Act must submit an application to file a petition for naturalization on Form N–400. The duly authenticated copies of the records and the certified statements of the executive departments described in section 328 of the Act shall be requested by the applicant on Form N–426, prepared in triplicate, and submitted to the Service with the Form N–400. Any person of the class described in § 328.1 or § 328.2 of this part may file his/her petition for naturalization in any naturalization court regardless of place of residence. The petition for naturalization must be filed, in duplicate, on Form N–405.

(Sec. 328 of the I&N Act, as amended; 8 U.S.C. 1439)

PART 332—PRELIMINARY INVESTIGATION OF APPLICANTS FOR NATURALIZATION AND WITNESSES

4. In § 332.11 paragraphs (a) and (b) are revised to read as follows:

§ 332.11 Investigation preliminary to filing petition for naturalization.

(a) *Scope of investigation.* Whenever practicable, each applicant for naturalization shall appear in person before an officer of the Service authorized to administer oaths or affirmations, prior to the filing of a petition for naturalization, and give testimony under oath or affirmation concerning the applicant's mental and moral qualifications for citizenship, attachment to the principles of the Constitution, and disposition to the good order and happiness of the United States, and the other qualifications to become a naturalized citizen as required by law. The investigation shall be uniform throughout the United States. During the interrogation of the applicant and at the applicant's request, an attorney or representative who has filed an appearance in accordance with Part 292 of this chapter may be permitted to be present and observe the interrogation and make notes without otherwise participating therein.

(b) *Conduct of investigation.* Prior to the beginning of the investigation, the Service officer shall make known to the applicant the official capacity in which he/she is conducting the investigation. The applicant shall be questioned under oath or affirmation in a separate setting apart from the public. The applicant shall be questioned as to each assertion made by him/her in the application to file a petition and in any supplemental form. Whenever necessary, the written answers in the forms shall be corrected by the officer to conform to the oral statements made under oath or affirmation. The Service officer may have a stenographic transcript made, or prepare an affidavit covering testimony of the applicant. The questions to the applicant shall be repeated in different form and elaborated, if necessary, until the officer conducting the investigation is satisfied that the person being questioned fully understands them. At the conclusion of the investigation all corrections made on the application form and supplements thereto must be consecutively numbered and recorded in the space provided therefor in the applicant's affidavit contained in the form. The affidavit must then be subscribed and sworn to or affirmed by the applicant and signed by the Service officer. Witnesses, if called, shall be questioned to develop their own credibility and competency as well as the extent of their personal knowledge of the applicant's qualifications to become a naturalized citizen. If the applicant is excepted from the requirement of reading and writing, and speaking English, the questioning, including the examination of the applicant's knowledge and understanding of the Constitution, history, and form of Government of the United States, may be conducted through an interpreter.

(Sec. 332 of the I&N Act, as amended; 8 U.S.C. 1443)

PART 332a—OFFICIAL FORMS

§ 332a2. [Amended]

5. In § 332a.2, Official forms prescribed for use of clerks of naturalization courts, the following form is removed: N–451—Affidavits of Witnesses (to Petition for Naturalization).

6. In § 332a.13, paragraph (b) is revised and paragraph (e) is removed.

§ 332a.13 Alteration of forms of petitions or applications for naturalization.

* * * * *

(b) *Exemption from residence or physical presence in the United States or State.* Whenever residence or physical presence in the United States or State for any specified period is not required, by striking out the allegations relating thereto as to the period of United States or State residence or physical presence.

* * * * *

(e) [Removed]

* * * * *

(Sec. 332 of the I&N Act, as amended; 8 U.S.C. 1443)

PART 334—PETITION FOR NATURALIZATION

7. Section 334.2 is revised to read as follows:

§ 334.2 Oath or affirmation of petitioner.

The petition for naturalization shall be executed under the following oath (or affirmation): "You do swear (affirm) that you know the contents of this petition for naturalization subscribed by you, and that the same are true to the best of your knowledge and belief."

8. Section 334.11 is revised to read as follows:

§ 334.11 Petition for naturalization and preliminary application.

A person who desires to apply for naturalization shall, before filing his petition for naturalization, execute and submit preliminary application Form N–400. Former citizens who are applying under section 324(a) or 327 of the Act shall execute supplement Form N–400A. Seamen who are applying under section 330 of the Act shall execute supplement Form N–400B. The Service shall notify the applicant when and where to appear for preliminary investigation and filing his/her petition for naturalization.

9. Section 334.21 is revised to read as follows:

§ 334.21 Verification of petition for naturalization; administration of oath.

Every petition for naturalization must be verified by the petitioner before it is filed. The petitioner shall appear in person either before a designated examiner or before the clerk of the court or authorized deputy, and such officer shall administer the required oath or affirmation to the petitioner.

(Sec. 334 of the I&N Act, as amended; 8 U.S.C. 1445)

PART 335—PRELIMINARY EXAMINATION ON PETITIONS FOR NATURALIZATION

10. In § 335.11, paragraph (a) is revised to read as follows:

§ 335.11 Preliminary examination pursuant to section 335(b) of the Immigration and Nationality Act.

(a) *When held.* Preliminary examinations shall be open to the public, and shall, where practicable, be held immediately after the petition for naturalization is filed with the clerk of court unless, in the opinion of the district director, the interests of good administration would be better served by holding such examinations prior to

the filing of the petition in the office of the clerk of court, but in no event shall such examinations be held before the petition has been properly executed by the petitioner.

* * * * *

(Sec. 335 of the I&N Act, as amended; 8 U.S.C. 1446)

PART 335b—PROOF OF QUALIFICATIONS FOR NATURALIZATION: WITNESSES: DEPOSITIONS [REMOVED]

11. Part 335b is removed.

PART 336—PROCEEDINGS BEFORE NATURALIZATION COURT

12. Section 336.11 is revised to read as follows:

§ 336.11 Personal representation of Government at naturalization proceedings.

At least 30 days prior to the holding of any naturalization proceedings referred to in section 336(d) of the Act, the clerk of the naturalization court shall give written notice to the appropriate district director of the time, date, and place of such proceedings. Such notice may be waived by the district director. Final naturalization hearings and other naturalization proceedings shall be attended personally by naturalization examiners or other officers of the Service, who shall interrogate each petitioner or applicant regarding pertinent developments occurring subsequent to the date of filing of the petition or application, and shall, if not affected by the interrogation, present to the court the views and recommendations of the designated examiner and the regional commissioner, as appropriate. If the recommendation of the regional commissioner does not agree with that of the designated examiner, a member of the Service other than the person who conducted the preliminary examination shall, whenever practicable, represent the Service before the court. Such a representative may cross-examine the petitioner and may call other witnesses and produce evidence concerning any matter affecting the petitioner's eligibility for naturalization. When necessary, the representative in attendance shall have a stenographic report made of the testimony.

13. Section 336.16 is removed.

§ 336.16 Final hearing; waiver of 30 day period [Removed].

14. Section 336.16a is revised to read as follows:

§ 336.16a Final hearing; execution of questionnaire.

Immediately prior to the commencement of the final hearing, each person filing a petition for naturalization in his own behalf shall execute the questionnaire on Form N-445; or, if such person is filing a petition for naturalization in behalf of a child pursuant to section 322 of the Immigration and Nationality Act, said child being 13 years of age or older on the date of the final hearing, such person shall execute the questionnaire on Form N-445B.

15. Section 336.17 is removed.

§ 336.17 Substitution of witnesses [Removed].

PART 339—FUNCTIONS AND DUTIES OF CLERKS OF NATURALIZATION COURTS

16. Section 339.1 is revised to read as follows:

§ 339.1 Administration of oath to declarations of intention and petitions for naturalization.

It shall be the duty of every clerk of a naturalization court to administer the required oath or affirmation to each applicant for a declaration of intention. The clerk shall receive and file petitions and administer the required oath or affirmation to each petitioner unless such petitioner has executed the petition before a designated examiner.

(Sec. 339 of the I&N Act, as amended; 8 U.S.C. 1450)

PART 344—FEES COLLECTED BY CLERKS OF COURT

17. Section 344.3 is revised to read as follows:

§ 344.3 Fees in other than United States courts; remittance.

Clerks of courts other than United States courts shall similarly remit to the regional commissioner in the manner provided in § 344.2 one-half of all fees up to the sum of $40,000 and all fees in excess of $40,000, collected for declarations of intention and petitions for naturalization in any fiscal year.

(Sec. 344 of the I&N Act, as amended; 8 U.S.C. 1455)

Dated: February 26, 1982.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 82-6748 Filed 3-11-82; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 318, 319, and 381

[Docket No. 81-010 F]

Meat and Poultry Products; Phosphates and Sodium Hydroxide

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal meat inspection regulations and the Federal Poultry products inspection regulations to permit the use of certain sodium phosphates and potassium phosphates that have been approved for use in food by the Food and Drug Administration (FDA). This final rule also amends the regulations to permit the use of phosphates and sodium hydroxide in a wider range of meat and poultry food products than previously permitted. These actions are being taken in response to petitions from official meat and poultry processing establishments. In addition, this final rule amends the standard for cooked sausages to remove previous restrictions on the use of phosphates in these products. This action is taken in response to comments to the proposal for such action.

EFFECTIVE DATE: April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: .

Executive Order 12291

The Agency has determined in accordance with Executive Order 12291 that this final rule is not a "major rule." It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This docket has been reviewed for cost effectiveness under USDA Secretary's Memorandum 1512-1 implementing Executive Order 12291. The implementation of this regulation

would provide manufacturers of meat food products and poultry products with greater flexibility by expanding the applications and uses of phosphates and sodium hydroxide. The action is not expected to have any adverse impact on industry because the final rule merely expands the application and uses of these substances. It imposes no new requirements on businesses of any size. There are no adverse economic impacts or social costs identified with this action. Consequently, it would have a net benefit to society. The only alternative identified with this action is to retain the status quo and not issue these final changes. This would continue the existing regulations for use of these substances and thus not provide the benefits of less restrictive regulations.

Effects on Small Entities

The Administrator 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, Public Law 96–354 (5 U.S.C. 601), because this will impose no new requirements on industry. The implementation of this final rule will expand the permitted uses of potassium phosphates and sodium hydroxide. It is anticipated that this will not result in a significant economic impact.

Comments on Proposal

The Agency published a proposal on phosphates and sodium hydroxide in the **Federal Register** of August 7, 1981 (46 FR 40208). The agency received a total of 48 comments in response to the proposal. Of these, 38 comments supported one or more of the provisions in the proposal and 10 comments opposed the proposal. Several of the supporting comments requested that the Agency approve additional uses for phosphates; or clarify the uses of phosphates not addressed in the proposal.

The additional use of clarification requests include: (1) Amending the sausage standards (9 CFR 319.140 and 319.180) to allow the direct addition of phosphates to sausages; (2) amending the flavor protection entry of sodium tripolyphosphate; (3) changing the sodium hydroxide to phosphate ratio to a limiting ratio rather than a required ratio; (4) approving the use of potassium hydroxide and sodium bicarbonate as pH control agents in meat food products; (5) making the terminology for sodium hexametaphosphate more precise; (6) using dry phosphate powders at the 0.5 percent level in addition to phosphates in solution; (7) eliminating the reference to freezing the meat as a requirement for phosphate addition for items in the table under "flavoring agents, protectors, and developers"; (8) limiting the ultimate pH to which meat can be adjusted; and (9) clarifying the use of phosphates in meat food products for which a definition, standard of identity, or composition has been prescribed by the Secretary in Part 319 of the Federal meat inspection regulations (9 CFR 319). Summaries of the comments and the Agency's response to them appear in the following paragraphs.

1. Nineteen comments requested the Agency to amend the sausage standards (9 CFR 319.140 and 319.180) to allow the direct addition of phosphates to sausages. Such an amendment was not a part of the proposal, which proposed only that the use of phosphates be extended to various meat food products except where otherwise prohibited by Federal meat inspection regulations. Section 319.140 provides for a standard of composition for sausage and prohibits the use of phosphates in sausages, except uncooked pork from cuts cured with phosphates listed in § 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)) may be used in cooked sausage. This refers to the industry practice of using pork trimmings cured with phosphates as a meat ingredient in cooked sausage. The comments argued that the stipulation against direct addition of phosphates to cooked sausage constitutes economic discrimination against small processors who may not have a continuous supply of phosphated pork trimmings available. The comments also indicated that the use of phosphates in cooked sausages would facilitate the use of lower levels of sodium chloride, thus resulting in an overall reduction of sodium levels in cooked sausage.

The Agency recalls that the original intent of the phosphate proscription in cooked sausages was to help control the water and fat content of cooked sausage products. When the use of uncooked cured pork trimmings containing phosphates was originally approved, a limit of 10 percent of the total product weight was established. The 10 percent limitation on the use of these trimmings was subsequently lifted, but the prohibition against the direct addition of phosphates remains. The water and fat contents of cooked sausages are now controlled independently of phosphates, so the original reason for prohibiting the direct addition of phosphates to sausages no longer exists.

The request to permit the direct addition of phosphates to cooked sausages raises the question of the technical effect of phosphates in cooked sausages. The technical effect for which phosphates are listed under the "Phosphates" section of 9 CFR 318.7 is "to decrease amount of cooked out juices." Several comments, however, specifically indicated other technical effects of phosphates in cooked sausages which included antioxidant, emulsion stabilizer, solubilizer for salt soluble proteins, and texturizer. These technical effects, except for solubilizer, were also reported for phosphates in meat and poultry products in the National Academy of Sciences/National Research Council (NAS/NRC) Survey of Food Manufacturers conducted for the Food and Drug Administration (FDA) in 1972. Because the cooked sausages were not listed separately in that survey, the Agency cannot determine whether or not phosphates have these technical effects in cooked sausages. Based on the comments, however, and the NAS/NRC survey, the Agency concludes that phosphates serve valid technical effects other than water binding in cooked sausages, such as decreasing the amount of cooked out juices and increasing flavor protection.

In addition, the Agency views the potential reduction in sodium levels in sausages and the potential reduction of economic discrimination against small processors as positive benefits of using phosphates in cooked sausages. Therefore, this final rule amends the sausage standards to permit the direct addition of phosphates to cooked sausages under the conditions set out in 9 CFR 318.7(c)(4) of the Federal meat inspection regulations.

However, the use of phosphates in sausage, other than cooked sausage, would have no technical effect, and could cause such sausage to become economically adulterated within the meaning of section 1(m)(8) of the Federal Meat Inspection Act (21 U.S.C. 601(m)(8)). Therefore, the Agency will continue to prohibit the use of phosphates in sauage, other than cooked sausage.

2. Ten comments expressed opposition to the use of phosphates and sodium hydroxide in meat and poultry food products. The principal basis of these comments was a general concern about the safety of food additives. One comment indicated the extreme toxicity of organophosphates.

The Agency emphasizes that this rulemaking encompasses only food-grade inorganic phosphates that are approved by the FDA. FSIS acknowledges the extreme toxicity of organophosphates which are sometimes used for pest control. Food-grade phosphates are sharply distinct from organophosphates in terms of chemical

structure, chemical properties and biological toxicity. Any meat or poultry food product found to contain demonstrable amounts of organophosphates would be considered to be adulterated within the meaning of section 1(m) of the Federal Meat Inspection Act or section 4(g) of the Poultry Products Inspection Act, and would be subject to appropriate sanctions under the Acts.

Added substances have been used in food, including meat and poultry food products, for many years. When used in accordance with the safety provisions of the Federal Food, Drug and Cosmetic Act, the use of added substances has generally served to promote the technical quality and consumer acceptability of processed foods and to minimize economic losses due to spoilage. The phosphates (and sodium hydroxide) for which new uses are approved in this final rule are either generally recognized as safe (GRAS) by FDA (21 CFR 182) or proposed for affirmation as GRAS by that Agency. The FDA's determination of the safety of these ingredients is based on the conclusions of the Select Committee on GRAS Substances organized by the Federation of American Societies for Experimental Biology (FASEB). The final reports of the Select Committee on the safety of phosphates and sodium hydroxide are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22151. The ordering number for the phosphate report is PB–262–651/AS and the current cost is $4.50; the ordering number for the sodium hydroxide report is PB–265–507/AS and the current cost is $4.00. (These prices are subject to change.) Based on the conclusions of these reports, the FDA proposed to affirm the GRAS status of phosphates in the **Federal Register** of December 18, 1979 (44 FR 74845) and of sodium hyroxide in the **Federal Register** of February 22, 1980 (45 FR 11842). Based on the results of the FDA evaluation concerning the safety of phosphates and sodium hydroxide in food, the Administrator concludes that it is appropriate to approve the use of these ingredients in meat and poultry food products under the conditions specified in the FSIS proposal.

3. Nine comments requested approval of phosphates for the technical effect of "helping to protect flavor" and also requested clarification of the product categories in which phosphates are approved for this technical effect. Several of these comments expressed uncertainty about the meaning of the term "and similar products" under the flavor protection entry for the use of sodium tripolyphosphate in "fresh beef," "beef for further cooking," "cooked beef" and similar products. One comment made reference to a petition submitted previously to FSIS requesting that the flavor protection entry be amended to provide for the use of sodium tripolyphosphate in beef patties and fabricated steak. The comment expanded on this petition by requesting that the flavoring agent provision for approved phosphates be amended to include the product categories "beef patties, meat loaves, meat toppings, and similar products derived from pork, lamb, veal, mutton, and goat meat which are cooked or frozen after processing."

In view of the fact that FDA has proposed to affirm the GRAS status of sodium tripolyphosphate and sodium hexametaphosphate as flavor enhancers in meat and poultry products (44 FR 74845), the Agency sees no problem with such an amendment from a safety standpoint. The comments constitute support for the efficacy of sodium tripolyphosphate and sodium hexametaphosphate as flavor protectors in the meat products in question. Therefore, the Agency concludes that it is appropriate to amend the flavor protection entry for sodium tripolyphosphate and sodium hexametaphosphate to include the additional meat product categories that were requested in the petition and the comments. However, the Agency hastens to add the following caveat; when an added substance, such as a phosphate, is approved for two or more technical effects in the same product, it is not the intent of the Agency to permit use of the substance at a combined level higher than the highest level permitted for any single technical effect. For phosphates, this means that the maximum amount permitted in meat or poultry is 0.5 percent in the product regardless of the intended technical effect or combination thereof. This final rule so amends the table of approved substances.

4. Eight comments expressed support for the use of approved phosphates to reduce the amount of cooked out juices in an expanded array of meat and poultry products.

The Agency agrees with these comments. The approval of phosphates in this final rule is not intended to encompass certain minimally processed standardized products such as ground beef (9 CFR 319.15(a)), hamburger (9 CFR 319.15(b)) and fresh sausage (9 CFR 319.140–145). The use of phosphates is not currently provided for in the regulations for these products and the Agency intends to adhere to this policy. In order to make this policy more explicit, this final rule amends the standards for ground beef and hamburger (9 CFR 319.15 (a) and (b)) to prohibit the addition of phosphates to these products.

The Agency address in Footnote 2 of the table of approved substances is also being changed to reflect recent reorganizations and resulting name changes.

5. Six comments supported the substitution of potassium phosphates for sodium phosphates in meat and poultry food products. Although potassium phosphates are usually more expensive that the corresponding sodium phosphates, they do offer a way to reduce the sodium content of these products without drastically altering their characteristics.

The Agency agrees with these comments. The voluntary reduction of sodium levels in food is a common goal of FSIS and FDA. FDA is in the process of finalizing its 1979 proposal to affirm the GRAS status of several sodium and potassium phosphates. The substitution of potassium phosphates for sodium phosphates, where technically and economically feasible, is one way of effecting a general reduction of sodium levels in foods. FSIS supports the substitution of potassium phosphates for sodium phosphates within the scope of the FDA proposal. Certain potassium phosphates (insoluble potassium metaphosphate, potassium trimetaphosphate, potassium polyphosphates, glassy and potassium acid pyrophosphate) were not proposed for GRAS affirmation by FDA because that Agency has no evidence that they are being used in food. With these exceptions, this final rule amends the table of approved substances to include potassium phosphates that have been proposed to be affirmed as GRAS by FDA.

6. Five comments addressed the use of sodium hydroxide and other basic substances as pH control agents in meat and poultry food products. Four comments requested relaxation of the 4:1 ratio of phosphate to sodium hydroxide in the table of approved substances for use in meat products. The comments agreed that the proposed regulation should be modified to permit the addition of sodium hydroxide in an amount sufficient to adjust the pH to a desired level, but not to exceed a limit of one part of sodium hydroxide to four parts of phosphate. One comment requested the approval of potassium hydroxide as an alternative to sodium hydroxide. Another comment requested

the approval of sodium bicarbonate as an alternative pH control agent to sodium hydroxide.

The technical effect for which sodium hydroxide is currently approved is not pH control, but to decrease the amount of cooked out juices. Furthermore, the only approval of sodium hydroxide for this use is in conjunction with phosphates in the ratio of one part sodium hydroxide to four parts phosphate. Upon review of this approved use and the intent of the regulation, the Agency can see no reason for requiring a sodium hydroxide/phosphate ratio of exactly 1:4 as long as this value is not exceeded. Therefore, this final rule amends the provisions in the "amount" column of the sodium hydroxide entry to read as follows: "May be used only in combination with phosphates in a ratio not to exceed one part sodium hydroxide to four parts phosphate."

The Agency acknowledges the requests for approval of potassium hydroxide and sodium bicarbonate as pH control agents in meat food products. Sodium bicarbonate is already listed as approved for the purposes of neutralizing excess acidity in rendered fats, curing pickles, and cleaning vegetables for soups (9 CFR 318.7(c)(4)). Agency evaluation of the use of sodium bicarbonate as a pH control agent in other meat food products is not within the scope of this rulemaking and it should be the subject of separate notice and comment rulemaking. If meat and poultry processors wish to use these substances as pH control agents in their products they should consider petitioning the Agency for approval of such use.

7. Four comments supported the use of phosphates to retard oxidative rancidity in meat food products. This was considered most important in noncured, precooked processed meat or sausage products to prevent the development of a "warmed over" taste and also in frozen products to retard the development of rancidity.

The Agency agrees with these comments. However, because phosphates do not appear to be as potent antioxidants as the traditional antioxidants (BHT, BHA, TBHQ, etc.), this final rule continues to list the approved phosphates as helping to protect flavor rather than as antioxidants per se.

8. One comment called attention to the ambiguous chemical nomenclature of "hexametaphosphate." It recommended the separation of the so-called "sodium metaphosphates" into three categories: sodium metaphosphate, insoluble; sodium trimetaphosphate and sodium polyphosphates, glassy.

The Agency agrees that the term "sodium hexametaphosphate" may be an ambiguous chemical name. The need for more precise terminology led the Committee on Codex Specifications of the National Research Council to list separately the three substances mentioned above in the 3rd Edition of the *Food Chemicals Codex* (National Academy Press, Washington, D.C., 1981). Communications with FDA indicate that it is considering doing likewise in its final rule on phosphates. Therefore, this final rule deletes the name "sodium hexametaphosphate" from the proposed rule and replaces it with the names "sodium metaphosphate, insoluble," and "sodium polyphosphates, glassy." "Sodium trimetaphosphate" is an approved food additive listed by FDA for use as an esterifying agent with modified food starch (21 CFR 172.892(d)). That use is one primarily within the jurisdiction of FDA and does not require additional listing by this Agency. The corresponding potassium phosphates are not being listed because they are not listed in the *Food Chemicals Codex*, (3rd ed.), and FDA is not considering affirming these compounds as GRAS.

9. One comment supported the proposal but requested that the table of approved substances be further modified to permit the use of dry phosphate powers at the 0.5 percent level in addition to phosphates in solution which would increase the level to 1 percent of the total product. The comment argued that this would permit the use of phosphates in the preparation of frankfurters, bologna, pre-cooked breakfast sausage and similar products.

The Agency, as discussed in item 1 above, is amending the cooked sausage standard to allow the direct addition of phosphates to cooked sausages. Whether the phosphates are added in dry form, or dissolved form, is up to the processor as long as the amount of the phosphate component in the final product does not exceed 0.5 percent of the total product. After reviewing this comment and the manifest need for phosphates in meat food products, the Agency concludes that the commentor has not provided enough information to justify elevation of the maximum allowable amount of phosphates from 0.5 percent to 1.0 percent. The Agency is willing to consider elevation of the permitted phosphate levels in the future if convincing evidence of the need for such action is submitted.

10. One comment supported the proposal but requested in addition that the use of phosphates in uncured beef and pork products not be limited to only those products which are frozen after processing. It specifically requested that the table of approved substances be amended, under the classification "flavoring agents, protectors and developers," to eliminate reference to freezing the meat product as a requirement for phosphate addition.

This final rule will not limit the use of phosphate to frozen products alone. Phosphates will be permitted for use in all meat and poultry products except where otherwise prohibited by regulation. The distinction between frozen and other types of products is therefore not relevant to the question of use but to that of technical effect. For frozen products, the tables specify that flavor protection is a legitimate purpose; for other products the purpose is to decrease the amount of cooked out juices. At the time the flavor protection entry for phosphates was first promulgated, post-process freezing was the primary condition for which flavor protection was sought. It is now apparent that post-process cooking is another condition where the use of phosphates will have the effect of protecting flavor. Therefore, cooked products have been added to this portion of the regulation. In all instances, products containing phosphates will be properly labeled in conformance with the requirements of the Federal Meat Inspection Act or the Poultry Products Inspection Act.

11. One comment suggested that a limitation on the ultimate pH to which meat can be adjusted by the addition of sodium hydroxide be stated as part of the regulation.

The Agency notes that in certain instances it does specify pH limitations as, for example, when a minimum pH is necessary to inhibit microbial growth in a sausage product. However, the Agency is not aware of any special health concern which would dictate the establishment of a pH limitation in products to which sodium hydroxide is added. Furthermore, sodium hydroxide is always added in combination with phosphates. Natural variation in the buffering capacity of different phosphate preparations would greatly complicate the establishment of an enforceable pH limitation. In the absence of data indicating a definite need for a pH limitation, the Agency concludes that a limitation on the ratio of sodium hydroxide to phosphate, as discussed above, is sufficient to assure the use of sodium hydroxide in accordance with good manufacturing practice.

12. One comment supported the proposal and specifically requested

approval of the use of phosphates in corned beef and pastrami products. This comment also cited the already approved use of phosphates in turkey pastrami as a serious economic disadvantage to the beef pastrami industry.

The Agency reiterates that it was the intent of the proposal to permit the use of approved phosphates in cured beef products such as corned beef and pastrami. This action should serve to correct the confusing pattern of approvals and lack of approvals which currently exists for the use of phosphates in cured meats. However, it is not the intent of the proposal to change the permitted levels of added substances in these products. Thus, the weight increase due to application of curing solution is still 10 percent for corned beef (9 CFR 319.100) and 20 percent for corned beef brisket (9 CFR 319.101). The Agency expects to adhere to its current policy of not permitting pastrami water-added.

13. One comment supported the proposal and also addressed the issue of phosphate consumption and hyperkinesis in children. The comment referred to the studies by Dr. Herta Hafer of the University of Mainz, West Germany in which a connection between phosphate consumption and hyperactivity in young children was reported. The commenter expressed his belief that the phosphate-hyperactivity hypothesis is without scientific foundation. The comment cited a scientific publication (*Monatsschrifte für Kinderheilkunde,* 128, 382–385, (1980)) in which the authors, B. Walther, E. Dieterich and J. Spranger, are reported to have concluded that their study "* * * yielded no proof that disturbances in child behavior are caused or sustained by phosphate taken orally" (Commenter's translation). The commenter expressed his belief that this lays to rest any concerns regulatory authorities may have that phosphates are in any way related to hyperkinesis in children.

The Agency is aware that other government agencies are involved in the evaluation of the scientific data on a possible link between phosphate consumption and hyperactivity in children. Representatives of FDA have met with Dr. Hafer. Additionally, the National Institutes of Health (NIH) recently held a three-day conference on the subject of hyperactivity. FSIS notes that FDA has not taken steps to curb or restrict the consumption of phosphates in response to the reported connection between phosphates and hyperactivity. While this does not rule out the possibility of future restrictions, if based on sound behavioral toxicology data, the Agency views the current status of FDA's phosphate rulemaking along with the FASEB safety evaluation cited in item 2 above as sufficient reason to proceed with promulgation of its own final rule on phosphates in meat and poultry products.

The Agency is also revising the cross-references to § 318.7(c)(4) provisions which appear elsewhere in the regulations. Accordingly, §§ 319.140 and 319.180 are being revised, to the extent necessary, to accurately reflect the provisions of this regulation.

In addition, the Agency is clarifying the percentage of sodium tripolyphosphate used as a flavoring agent in the chart in § 318.7 to reflect that the percentage of sodium tripolyphosphate is limited to 0.5 percent in the total product.

Therefore, this final rule promulgates the provisions of the proposal as modified and described in the preamble.

Accordingly, the Federal meat inspection regulations are amended as follows:

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS: REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for Parts 318 and 319 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. 1254.

2. In § 318.7(c)(4), in that portion of the chart dealing with the class of substance titled "Flavoring agents; protectors and developers" the description of the product substances, and amount is revised, in part, to read as follows:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Flavoring agents; protectors and developers.	Sodium tripolyphosphate.	To help protect flavor..	"Fresh Beef," [2] "Beef for Further Cooking," "Cooked Beef," Beef Patties, Meat Loaves, Meat Toppings, and similar products derived from pork, lamb, veal, mutton, and goat meat which are cooked or frozen after processing.	0.5 percent of total product.
	Mixtures of sodium tripolyphosphate and sodium metaphosphate, insoluble; and sodium polyphosphates, glassy.	....do	do	Do.
*	*	*	*	*

3. In § 318.7(c)(4), in that portion of the chart dealing with the class of substance "Miscellaneous," the description of the product in which the substance "Sodium Hydroxide" may be used and in what amounts, is revised to read as follows:

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Miscellaneous.....	Sodium hydroxide.....	To decrease the amount of cooked out juices.	Meat food products containing phosphates.	May be used only in combination with phosphates in a ratio not to exceed one part sodium hydroxide to four parts phosphate; the combination shall not exceed 5 percent in pickle at 10 percent pump level; 0.5 percent in product.
*	*	*	*	*

4. In § 318.7(c)(4), that portion of the chart dealing with the class of substance titled "Phosphates" is revised by removing the word phosphates and including the

information under the "Class of substance" titled "Miscellaneous", and amending the description of the products and substances to read as follows:

Class of substance	Substance	Purpose	Products	Amount
*	* *	*	*	* *
Miscellaneous	Disodium phosphate	do	Meat food products except where otherwise prohibited by the Federal meat inspection regulations.	.5 percent of phosphate in pickle at 10 percent pump level; 0.5 percent of phosphate in product (only clear solution may be injected into product).
	Monosodium phosphate.	do	do	Do.
	Sodium metaphosphate, insoluble.	do	do	Do.
	Sodium polyphosphate, glassy.	do	do	Do.
	Sodium tripolyphosphate.	do	do	Do.
	Sodium pyrophosphate.	do	do	Do.
	Sodium acid pyrophosphate.	do	do	Do.
	Dipotassium phosphate.	do	do	Do.
	Monopotassium phosphate.	do	do	Do.
	Potassium tripolyphosphate.	do	do	Do.
	Potassium pyrophosphate.	do	do	Do.
*	* *	*	*	* *

4. In § 318.7(c)(4), footnote 2 at the bottom of the table is amended to read "Information as to the specific products for which use of this substance is approved may be obtained upon inquiry addressed to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250."

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

5. The fifth sentence in § 319.140 is revised. The remainder of the section remains unchanged. The new sentence reads as follows:

§ 319.140 Sausage.

* * *. Sausage may not contain phosphates except that phosphates listed in § 318.7(c)(4) of this subchapter may be used in cooked sausage. * * *

6. The fifth sentence in § 319.180(a) is revised. The remainder of the paragraph remains unchanged. The new sentence reads as follows:

§ 319.180 Frankfurter, frank, furter, hotdog, wiener, vienna, bologna, garlic bologna, knockwurst, and similar products.

(a) * * *. These sausage products may contain only phosphates approved under Part 318 of this chapter.* * *

* * * * * * *

7. The sixth sentence in § 319.180(b) is revised. The remainder of the paragraph remains unchanged. The new sentence reads as follows:

(b) * * *. These sausage products may contain only phosphates approved under Part 318 of this chapter. * * *.

* * * * *

8. The first sentence of § 319.15(a) is amended by inserting the word "phosphates" after "added water" and before "binders."

§ 319.15 Miscellaneous beef products.

(a) Chopped beef, ground beef * * * shall not contain added water, phosphates, binders or extenders.* * *.

* * * * *

9. The first sentence of § 319.15(b) is revised by inserting the word "phosphates" after "added water" and before "binders."

* * * * *

(b) Hamburger * * * shall not contain added water, phosphates, binders or extenders.* * *.

* * * * *

Further, the poultry products inspection regulations are amended as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 reads as follows:

Authority: Section 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450); and subsection 21(b) of the Water Pollution Control Act, as amended by Public Law 91-224 and by other laws (33 U.S.C. 1171(b)).

2. Section 381.147(f)(3) of the Federal Poultry products inspection regulations (9 CFR 381.147(f)(3)) is revised to read as follows:

§ 381.147 Restrictions on the use of substances in poultry products.

* * * * *

(f) * * *

(3) The substances specified in the following table are acceptable for use in the processing of poultry products provided they are used within the limits of the amounts stated and under other conditions as prescribed by applicable regulations.

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Miscellaneous.....	Sodium hydroxide.	To decrease the amount of cooked out juices.	Poultry food products containing phosphates.	May be used only in combination with phosphate in a ratio not to exceed one part sodium hydroxide to four parts phosphate.
*	*	*	*	*

* * * * *

3. In § 381.147(f)(3) in the portion of the chart dealing with the class of substance "Miscellaneous", the following information is added in the appropriate column in alphabetical order to read as follows:

4. In § 381.147(f)(3), that portion of the chart dealing with the class of substance titled "Phosphates" is revised by deleting the word phosphates and including the information under the "class of substance" titled "Miscellaneous," and amending the description of the products and substances to read as follows:

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Miscellaneous.....	Disodium phosphate.....	To decrease the amount of cooked out juices.	Poultry food products except where otherwise prohibited by the poultry products inspection regulations.	0.5 percent of total product.
	Monosodium phosphate.....	do.....	do.....	Do.
	Sodium metaphosphate, insoluble.....	do.....	do.....	Do.
	Sodium polyphosphate, glassy.....	do.....	do.....	Do.
	Sodium tripolyphosphate.....	do.....	do.....	Do.
	Sodium pyrophosphate.....	do.....	do.....	Do.
	Sodium acid pyrophosphate.....	do.....	do.....	Do.
	Dipotassium phosphate.....	do.....	do.....	Do.
	Monopotassium phosphate.....	do.....	do.....	Do.
	Potassium tripolyphosphate.....	do.....	do.....	Do.
	Potassium pyrophosphate.....	do.....	do.....	Do.
*	*	*	*	*

Done at Washington, DC, on: February 26, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-6761 Filed 3-11-82; 8:45 am]

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FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545, 555, 561 and 584

[No. 82-162]

Manufactured Home Loans

Dated: March 5, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board has amended the regulations for federal savings and loan associations to liberalize the manufactured home lending rules. The amendments would allow federal associations to become more involved in this lending activity.

EFFECTIVE DATE: April 15, 1982.

FOR FURTHER INFORMATION CONTACT: James C. Stewart ((202) 377-6457), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: By Resolution No. 81-678 (November 12, 1981), the Federal Home Loan Bank Board proposed to amend the regulations governing mobile home lending by federally-chartered savings and loan associations to: (1) allow associations to finance a broader range of insurance premiums as part of a mobile home loan; (2) eliminate the percentage-of-assets limit on mobile home lending; (3) remove certain restrictions on the purchase of interests in out-of-territory mobile home loans; and (4) effect certain terminology changes (*i.e.* replacing the term "mobile home" with the term "manufactured home"). 46 FR 48341 (December 1, 1981). The Board also solicited comment on whether mobile home loans should be covered by the requirement in Insurance Regulation § 563.35(b) that insured institutions give borrowers notice of their right to freely select the provider of insurance services in connection with loans secured by owner-occupied homes. 12 CFR 563.35(b) (1981).

Forty-two comments were received from the public concerning the proposal, including seventeen letters from thrift institutions. Although the majority were federal associations, several state-chartered associations commented on their mobile home lending experiences. A significant number of comment letters came from insurance companies and insurance agencies, all of which strongly favored the proposal. Favorable comments also were offered by savings and loan association trade groups. A variety of mobile home trade groups expressed their support for the proposal, as did three individuals and a midwest savings and loan service corporation prominent in mobile home loan servicing.

The greatest amount of comment was devoted to the proposed elimination of the restriction on insurance premium financing in connection with mobile home loans. Under current regulations, federal associations are prohibited from financing, as part of a mobile home loan, insurance premiums other than three-year premiums for vendors' single-interest coverage and physical damage insurance. 12 CFR 545.7-6(e)(2)(iv) (1981). As a result of this prohibition, associations may not finance premiums

for credit life and disability insurance. Several commenters argued that this restriction worked to the detriment of mobile home buyers who desire credit life coverage. One commenter submitted that low- and middle-income buyers of mobile homes are not being served adequately by life insurance companies and can only obtain necessary insurance coverage through credit life programs. It was also asserted that associations may be more willing to finance mobile homes when they have the payment assurance provided by credit life policies.

Many associations saw the elimination of the premium financing restriction as making mobile home loans a more attractive investment because of the commisions that would accrue to associations placing credit life policies. The ability to finance credit life premiums would also allow federal associations greater access to mobile home loans originated by dealers. One association noted that its dealer business dropped when the premium financing restriction was adopted in 1979. The dealers reportedly took their business to lenders who could offer a more comprehensive financing package.

A number of respondents offered their views on whether the home-mortgage restrictions on the offering of insurance services should be applied to mobile home loans. Under Insurance Regulation § 563.35(b), insured institutions are required to give borrowers notice of their right to freely select the provider of insurance services in connection with loans secured by an owner-occupied home. 12 CFR 563.35(b). Manufactured home loans are not covered by this rule. Commenters had divided views on this question. Three savings and loan associations endorsed parity between mobile home and real estate lending. Two associations, an insurer, and mobile home trade group opposed any notice requirement for manufactured home loans. It was contended that the laws of many states guarantee borrowers freedom to choose insurance providers when credit life is required by a lender. *See, e.g.*, Cal. Ins. Code § 779.20 (West 1972); Haw. Rev. Stat. ch. 479 (1976). Opponents also suggested that the § 563.35 requirements would overlap with Regulation Z, 12 CFR Part 226 (1981). Under that Regulation, the cost of a credit life or disability premium must be included in the total finance charge and reflected in the annual percentage rate unless, *inter alia*: (1) Coverage is not required by the lender and this fact is disclosed; and (2) the customer signs an affirmative written request for coverage after receiving the disclosures. 12 CFR 226.4(a)(5) (1981); Revised Regulation Z § 226.4(d)(1), 46 FR 20895 (April 7, 1981) (to become mandatory on Oct. 2, 1982). With regard to insurance against loss or damage to financed property, Regulation Z requires inclusion of the premium in the finance charge unless the customer is furnished a statement that he or she may choose the person through which the insurance is to be obtained. 12 CFR 226.4(a)(6); Revised Regulation Z at § 226.4(d)(2). Accordingly and in much the same way as § 563.35(b), Truth-in-Lending provides borrowers with notice of their right to freely select the types of insurance coverage most commonly associated with manufactured home lending. The only instance in which a § 563.35(b)-type notice would not be required under Regulation Z would occur when credit life or disability coverage is required. In this case, however, the premium would be included in the finance charge, at least putting the consumer on notice that his or her cost of credit will be significantly higher at that association. Upon consideration of these factors, the Board has determined that extension of the § 563.35(b) notice requirements to mobile home loans would not significantly benefit consumers and, therefore, has decided not to amend the regulation. The decision not to extend the notice requirement in no way affects the substantive prohibition against tying insurance services which applies to all loans under § 563.35(d).

Little comment was received regarding the other parts of the proposal. Associations favored deletion of the 20%-of-assets limitation on aggregate lending and the prohibition against out-of-territory purchases from non-federally insured institutions, viewing these changes as allowing freer access to the manufactured home lending markets. Although commenters generally saw no detrimental effects from the proposed change in terminology from mobile homes to manufactured homes, there did seem to be some confusion about what is meant by the term "manufactured home". The term includes both stationary and mobile units. Moreover, since it is illegal to sell a manufactured home not meeting the statutory standard under 42 U.S.C. 5409(a)(1), federal associations would have little opportunity to finance a mobile home which is not a "manufactured home". In their comments, the U.S. League of Savings Associations did point out several additional places in which the term "mobile home" is used in the regulations. These references will be changed to "manufactured homes".

Commenters made several additional suggestions regarding mobile home lending. First, clarification was sought regarding the authority of federal associations to make loans on the security of combinations of manufactured homes and lots. When the Board proposed revisions to the mobile home lending regulations in 1979, the preamble to the proposal stated that mobile homes permanently affixed to the borrower's land should be treated as real estate for lending purposes. 44 FR 26892 (May 8, 1979). In the preamble to the final amendments, however, it was stated that mobile homes could not be considered realty if state law still treated them as personalty. 44 FR 45117 (Aug. 1, 1979). The preamble further provided that federal associations could not purchase combination loans when the mobile home was treated as personalty under state law, even if the loan was insured by VA or FHA. *Id.*

It has been noted that it is not always possible to determine the exact status of a mobile home under state law. Manufactured homes are commonly titled as personalty with state motor vehicle departments. Once affixed to realty, the unit may be treated as a real estate improvement for tax purposes, but may be treated as personalty for other purposes.

The Board is of the view that the inconsistency and imprecision in state laws impedes the development of a national manufactured home financing system and that, at least for purposes of determining the lending authority of federally-chartered savings and loan associations, a federal rule is warranted. Accordingly, the Board has amended § 545.7–6 to provide a new subparagraph (e)(3), treating various kinds of combination loans.

The Board has determined that when the wheels and axles are removed and the manufactured home is permanently affixed to a foundation on a lot owned by the borrower (or to a leasehold as described in 12 CFR 541.14), the combination should be treated as residential real estate. A loan by a federal association secured by such a combination may be made on the same terms as other residential real property loans. This treatment would apply regardless of the characterization under state law and regardless of whether a personalty lien is taken against the manufactured home as a precautionary measure. (*See* new § 545.7–6(e)(3)(i)).

Loans secured by mobile home lots and unaffixed mobile homes present a different problem. It is the Board's view generally that the lack of fixture prevents these combinations from being

treated wholly as real estate. The Board recognizes, however, that it may not be possible for the borrower to permanently affix the mobile home in all instances. The costs of adding a foundation may be prohibitive for the purchaser of a used mobile home which has not been affixed by the previous owner. An unaffixed mobile home may also be desirable because it is less expensive.

The VA and FHA combination-loan programs do not draw a distinction between affixed and unaffixed mobile homes. The loan amounts for either type of loan are calculated according to the same formulae. *See* 24 CFR 201.1504(a); 38 CFR 36.4204(d) (1981). It is the Board's view that, under existing statutory manufactured home lending authority, federal associations may make loans on VA-guaranteed or FHA-insured unaffixed combination loans on the terms specified by the appropriate agencies. (*See* § 545.7–b(e)(3)(iii)). For non-insured or non-guaranteed loans, investments in loans secured by combinations of lots and unaffixed manufactured homes will be governed by new subparagraph (e)(3)(ii) which will allow loan amounts equivalent to 75% of the appraised value of the lot and 90% of the buyer's total costs of the manufactured home; these limits accord with the lending limits on (improved) building lot real estate loans and manufactured home loans.

It was also pointed out that there is a potential ambiguity in the manufactured home regulations regarding adjustable loans. Under 12 CFR 545.7–6(e)(2)(ii), a federal association may invest in variable rate manufactured home loans if the "loan complies with one of the mortgage plans authorized under §§ 545.6–2(a)(4)(i), 545.6–4, 545.6–4a or 545.6–4b". The use of the term "loan" raises questions as to whether investment in variable rate installment sales contracts is permitted. The Board therefore has changed subparagraph (e)(2)(ii) to refer to "manufactured home chattel paper", now defined to include both loans and credit sales. A federal association may not purchase adjustable manufactured home installment sales contracts unless the required disclosures have been given to the debtor. The notices required by §§ 545.6–2(a)(4)(i), 545.6–4, 545.6–4a, and 545.6–4b may be modified to reflect credit sale terminology (*e.g.* use of "annual percentage rate" for interest rate, "amount financed" for loan balance, and "installment sales contract" for loan).

Finally, the Board was urged to increase the maximum loan term for manufactured home loans from 20 years to 25 years. Commenters cited longer loan terms available under federal guaranty programs as justification; however, 25-year loan terms are available only for insured and guaranteed loans secured by double-wide units and a lot. 12 U.S.C. 1703(b); 37 U.S.C. 1819(d). Since, with fixture, such a loan could be treated as a real estate loan under the Board's interpretation, these loans could be made with maturities greater than 25 years, and there does not appear to be cause for amending the current rule.

The Board is taking this opportunity to amend certain of its regulations to reflect the expanded consumer lending authority available to federal associations. First, the Board has deleted paragraph (b) of Board Ruling § 555.5 (12 CFR 555.5(b)) which prohibited federal associations from making unsecured advances to pay premiums on life insurance policies assigned to the association in connection with real estate loans. This ruling was adopted in 1959 as a precaution to associations that, although permitted to make advances to prevent lapses in assigned policies, federal associations could not use this implied power to generally finance insurance premiums. 24 FR 9415 (Nov. 24, 1959). The consumer lending authority bestowed on federal associations in the Depository Institutions Deregulation and Monetary Control Act empowers associations to make such advances. If added to the balance of a mortgage, however, the advances still would be limited by loan-to-value requirements. *See* 12 CFR 545.8–3(a).

The Board also has amended Federal Regulation § 545.7–9 governing the ability of associations to make loans secured by other loans. Reflecting the traditionally limited lending authority of federal associations, the regulation only allowed loans on the security of *secured* loans. To accommodate the new consumer lending authority, the secured loan restriction has been dropped. In addition, reference is added in § 545.7–6(e) to § 545.6–4b, a recent provision authorizing graduated payment adjustable mortgage loans, as applicable to manufactured home lending and to § 545.6–2(a)(4)(i), the balloon mortgage authority. Finally, the term "mobile home chattel paper" in 12 CFR 545.7–6(a)(2) has been amended to include installment sales contracts as well as loans; the language was dropped inadvertently during an earlier amendment of the section.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 545 and 555, Subchapter C, Part 561, Subchapter D, and Part 584, Subchapter F, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

1. Amend § 545.7–6 by: amending paragraphs (a) (1) and (2), paragraph (b) and paragraphs (e)(2) (iii) and (iv) thereto; redesignating paragraph (e)(3) thereof as (e)(4), and amending new (e)(4) by removing the phrase "shall be an institution whose accounts or deposits are insured by a Federal agency or a service corporation thereof and the seller"; adding a new paragraph (e)(3) thereto; and removing the phrase "mobile homes(s)" wherever it appears in § 545.7–6 and replacing it with the phrase "manufactured home(s)"; to read as follows:

§ 545.7–6 Manufactured home financing.

(a) *Definitions used in this Part—*

(1) "Manufactured home" shall have the same definition as that contained in the National Manufactured Home Construction and Safety Standards Act, 42 U.S.C. 5402(6).

(2) "Manufactured home chattel paper"—a document evidencing an installment sales contract or a loan or interest in a loan secured by a lien on one or more manufactured homes and equipment installed or to be installed therein.

* * * * *

(b) *General investment authority.* An association may invest in manufactured home chattel paper and interests therein without limitation as to percentage of assets.

* * * * *

(e) *Retail financing.*

* * * * *

(2) *Conventional loans.* * * *

* * * * *

(iii) the manufactured home chattel paper is payable within 20 years, in monthly payments which are substantially equal except to the extent that the financing complies with one of the mortgage plans authorized pursuant to §§ 545.6–2(a)(4)(i), 545.6–4, 545.6–4a or 545.6–4b of this Part; and

(iv) the financed amount (excluding time-price differential or interest, however computed) does not exceed (*a*) 90 percent of buyer's total costs, including freight, itemized set-up charges, sales or other taxes, filing and recording fees imposed by law and premiums for related insurance, or (*b*) 90 percent of the appraised market value or other generally accepted valuation of

the manufactured home in the case of a used manufactured home plus sales and other taxes, filing and recording fees imposed by law, premiums for related insurance, and freight and itemized set-up charges, if any.

* * * * *

(3) *Combination loans.* An association may invest in manufactured home chattel paper secured by combinations of manufactured homes and lots on the following terms:

(i) *Affixed manufactured homes.* If the wheels and axles have been removed and the manufactured home is permanently affixed to a foundation, a loan secured by a combination of manufactured home and lot on which it sits may be treated as a residential real estate loan under § 545.6–2 of this Subchapter.

(ii) *Unaffixed manufactured homes.* If the manufactured home is not affixed in the manner described in subparagraph (e)(3)(i) of this section, an association may make a loan secured by a combination of manufactured home and lot on which it is or is to be located if the financing complies with the requirements of subparagraphs (e)(2)(i), (ii) and (iii) and the loan-to-value ratio does not exceed 75% of the appraised value of the lot and lot improvements and 90% of the buyer's total costs of the manufactured home (or valuation of used manufactured home) as defined in subparagraph (e)(2)(iv).

(iii) *Insured and guaranteed loans.* Notwithstanding the other provisions of this subparagraph, an association may invest in a combination manufactured home and lot chattel paper that is insured or guaranteed as defined in §§ 541.10 or 541.13 of this Subchapter, or that has a commitment for such insurance or guarantee.

* * * * *

§ 545.7–9 [Amended]

2. Amend § 545.7–9 by revising the parenthetical phrase to read "(secured by assignment of loans)".

§ 545.9–1 [Amended]

3. Amend paragraph (c)(1)(i) of § 545.9–1 by deleting the phrase "mobile homes" and replacing it with the phrase "manufactured homes.".

§ 555.5–1 [Amended]

4. Amend § 555.5 by deleting paragraph (b) thereof.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

PART 563—OPERATIONS

§ 561.15 [Amended]

§ 563.43 [Amended]

5. Amend paragraphs (i), (j), & (k) of § 561.15 and paragraph (b)(1)(iii) of § 563.43 by deleting the phrase "mobile home" wherever it appears and substituting the phrase "manufactured home".

SUBCHAPTER F—SAVINGS AND LOAN HOLDING COMPANIES

PART 584—REGULATED ACTIVITIES

§ 584.2-1 [Amended]

6. Amend paragraph (b)(1)(ii) of § 584.2–1 by deleting the phrase "mobile home" and replacing it with the phrase "manufactured home".

(Home Owners' Loan Act section 5(c), 12 U.S.C. 1464(c), as amended by Depository Institutions Deregulation and Monetary Control Act section 401, 94 Stat. 153; National Housing Act section 401–403 & 408, 12 U.S.C. 1724–1726, 1730 & 1730a; Reorg. Plan No. 3 of 1947, 3 CFR 1071 (1943–1948 Comp.))

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-6824 Filed 3-11-82; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Part 576

[No. 82-160]

Amendment of Regulations Regarding Charter Conversions for Supervisory Purposes

Dated: March 5, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") has amended its regulations concerning conversions of state-chartered mutual savings banks to federal charter and conversions of federal mutual associations to state-chartered mutual institutions. These amendments clarify the Board's authority to waive or deem inapplicable certain regulatory requirements in connection with such conversions that are undertaken for supervisory reasons.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: James J. McCarthy, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552 ((202) 377–6455).

SUPPLEMENTARY INFORMATION: Board regulations regarding mergers, consolidations, purchases of assets and combinations involving federal associations or institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation contain specific exceptions that permit the Board to waive or deem inapplicable certain procedural requirements in connection with transactions that are instituted for supervisory reasons (12 CFR 546.2(d)(2), 563.22(d) and 46 FR 30488 (1981) (to be codified as 12 CFR 552.13(h)(6))). However, as current economic conditions have required a significant increase in corporate reorganizations of financial institutions, an increasing number of combinations have also involved charter conversions. Therefore, the Board has determined to amend its regulations to provide for waivers of certain procedural requirements applicable to charter conversions where the conversion occurs in connection with a transaction instituted for supervisory reasons. The Board has amended § 546.5 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 546.5) to provide for waiver of any requirement of that section in connection with conversions that are authorized for supervisory reasons. The Board has also amended § 576.1 of the Regulations for Federal Mutual Savings Banks (12 CFR 576.1) to provide for waiver of normal procedural requirements for federal mutual savings bank conversions that are authorized for supervisory reasons.

The Board finds that observance of the notice and comment period of 12 CFR 508.12 and 5 U.S.C. 553(b) and the 30-day delay of effective date of 12 CFR 508.14 and 5 U.S.C. 553(d) are unnecessary because it is in the public interest for the Board to be able to exercise maximum flexibility in resolving supervisory cases.

Accordingly, the Board hereby amends Part 546, Subchapter C, and Part 576, Subchapter E, Chapter V of Title 12, Code of Federal Regulations as set forth below.

SUBCHAPTER C—RULES AND REGULATIONS FOR FEDERAL SAVINGS AND LOAN SYSTEM

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

1. Amend § 546.5 by adding new paragraph (f) to read as follows:

§ 546.5 Conversion from Federal mutual to State-charter mutual.

* * * * *

(f) The Board may waive or deem inapplicable any provision of this section in order to facilitate a conversion that is authorized by the Board for supervisory reasons.

SUBCHAPTER E—RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

PART 576—APPLICATION, ISSUANCE OF CHARTER AND BYLAWS, ORGANIZATION

2. Amend paragraph (d) of § 576.1 by designating the existing text as paragraph (d)(1) and adding a new paragraph (d)(2), to read as follows:

§ 576.1 Application for conversion to Federal charter.

* * * * *

(d) *Procedure on applications.* * * *

* * * * *

(2) *Supervisory exception.* This paragraph (d) does not apply to conversions authorized by the Board for supervisory reasons.

* * * * *

(Sec. 5, 48 Stat. 132, as amended by title IV, § 408, Pub. L. 96-221, 94 Stat. 160 (12 U.S.C. 1464); Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-6823 Filed 3-11-82; 8:45 am]

BILLING CODE 6720-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB-44]

Staff Accounting Bulletin No. 44

AGENCY: Securities and Exchange Commission.

ACTION: Publication of staff accounting bulletin.

SUMMARY: The interpretations in this staff accounting bulletin indicate the staff's views on certain matters involved in the implementation of Accounting Series Release No. 302, Separate Financial Statements Required by Regulation S-X. It also deletes certain topics published in Staff Accounting Bulletin No. 40, the codification of Staff Accounting Bulletin Nos. 1-38, which are no longer relevant because of amendments to the proxy rules and to Regulation S-X which covers form and content of financial statements filed with the Commission.

EFFECTIVE DATE: March 3, 1982.

FOR FURTHER INFORMATION CONTACT: Marc D. Oken (202-272-2130) or John W. Albert (202-272-2133), Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

George A. Fitzsimmons,

Secretary.

March 3, 1982.

Staff Accounting Bulletin No. 44

The staff hereby deletes topics 1-B, 6-B and 6-C of Staff Accounting Bulletin No. 40. Topics 1-B and 6-B relate to the financial statement requirements for parent company only and for consolidated subsidiaries engaged in diverse financial-type activities which were amended by Accounting Series Release No. 302. Topic 6-C relates to the requirements for disclosures of certain relationships with independent accountants which were eliminated by Accounting Series Release No. 304. In addition, Topic 6-K is expanded to provide the staff's interpretation of certain matters involved in the implementation of the requirements of Accounting Series Release No. 302.

Topic 6: Interpretations of Accounting Series Releases

* * * * *

K. Accounting Series Release No. 302—Separate Financial Statements Required by Regulation S-X

* * * * *

2. Parent Company Financial Information.

a. *Computation of Restricted Net Assets of Subsidiaries.*

Facts

The revised rules for parent company disclosures adopted in Accounting Series Release No. 302 require, in certain circumstances, (1) footnote disclosure in the consolidated financial statements about the nature and amount of significant restrictions on the ability of subsidiaries to transfer funds to the parent through intercompany loans, advances or cash dividends [Rule 4-08(e)(3)], and (2) the presentation of condensed parent company financial information and other data in a schedule (Rule 12-04). To determine which disclosures, if any, are required, a registrant must compute its proportionate share of the nets assets of its consolidated and unconsolidated subsidiary companies as of the end of the most recent fiscal year which are restricted as to transfer to the parent company because the consent of a third party (a lender, regulatory agency, foreign government, etc.) is required. If the registrant's proportionate share of the restricted net assets of *consolidated* subsidiaries exceeds 25% of the registrant's consolidated net assets, both the footnote and schedule information are required. If the amount of such restrictions is less than 25%, but the sum of these restrictions plus the amount of the registrant's proportionate share of restricted net assets of *unconsolidated* subsidiaries plus the registrant's equity in the undistributed earnings of 50% or less owned persons (investees) accounted for by the equity method exceed 25% of consolidated net assets, the footnote disclosure is required.

Question 1

How are restricted net assets of subsidiaries computed?

Interpretative Response

The calculation of restricted net assets requires an evaluation of each subsidiary to identify any circumstances where third parties may limit the subsidiary's ability to loan, advance or dividend funds to the parent. This evaluation normally comprises a review of loan agreements, statutory and regulatory requirements, etc., to determine the dollar amount of each subsidiary's *restrictions.* The related amount of the subsidiary's net assets designated as restricted, however, should not exceed the amount of the subsidiary's net assets included in consolidated net assets, since parent company disclosures are triggered when a significant amount of *consolidated* net assets are restricted. The amount of each subsidiary's net assets included in consolidated net assets is determined by allocating (pushing down) to each subsidiary any related consolidation adjustments such as intercompany balances, intercompany profits, and differences between fair value and historical cost arising from a business combination accounted for as a purchase. This amount is referred to as the subsidiary's *adjusted net assets.* If the subsidiary's adjusted net assets are

less than the amount of its restrictions because the push down of consolidating adjustments reduced its net assets, the subsidiary's adjusted net assets is the amount of the subsidiary's *restricted net assets* used in the tests.

Registrants with numerous subsidiaries and investees may wish to develop approaches to facilitate the determination of its parent company disclosure requirements. For example, if the parent company's adjusted net assets (excluding any interest in its subsidiaries) exceed 75% of consolidated net assets, or if the total of all of the registrant's consolidated and unconsolidated subsidiaries' *restrictions* and its equity in investees' earnings is less than 25% of consolidated net assets, then the allocation of consolidating adjustments to the subsidiaries to determine the amount of their adjusted net assets would not be necessary since no parent company disclosures would be required.

Question 2

If a registrant makes a decision that it will permanently reinvest the undistributed earnings of a subsidiary, and thus does not provide for income taxes thereon because it meets the criteria set forth in APB Opinion No. 23, is there considered to be a restriction for purposes of the test?

Interpretative Response

No. The rules require that only third party restrictions be considered. Restrictions on subsidiary net assets imposed by management are not included.

b. Application of Tests for Parent Company Disclosures.

Facts

The balance sheet of the registrant's 100%-owned subsidiary at the most recent fiscal year-end is summarized as follows:

Current assets	$120
Noncurrent assets	45
Subtotal	165
Current liabilities	30
Long-term debt	60
Subtotal	90
Common stock	25
Retained earnings	50
Subtotal	75
Total	165

Net assets of the subsidiary are $75. Assume there are no consolidating adjustments to be allocated to the subsidiary. Restrictive covenants of the subsidiary's debt agreements provide that:

—Net assets, excluding intercompany loans, cannot be less than $35
—60% of accumulated earnings must be maintained

Question

What is the amount of the subsidiary's restricted net assets?

Interpretive Response

Restriction	Computed restrictions
Net assets: currently $75, cannot be less than $35; therefore	$35
Dividends: 60% of accumulated earnings ($50) cannot be paid out; therefore	30

Restricted net assets for purposes of the test are $35. The maximum amount that can be loaned or advanced to the parent without violating the net asset covenant is $40 ($75–35). Alternatively, the subsidiary could pay a dividend of up to $20 ($50–30) without violating the dividend covenant, and loan or advance up to $20, without violating the net asset provision.

Facts

The registrant has one 100%-owned subsidiary. The balance sheet of the subsidiary at the latest fiscal year-end is summarized as follows:

Current assets	$75
Noncurrent assets	90
Subtotal	165
Current liabilities	23
Long-term debt	57
Redeemable preferred stock	10
Common stock	30
Retained earnings	45
Subtotal	75
Total	165

Assume that the registrant's consolidated net assets are $130 and there are no consolidating adjustments to be allocated to the subsidiary. The subsidiary's net assets are $75. The subsidiary's noncurrent assets are comprised of $40 in operating plant and equipment used in the subsidiary's business and a $50 investment in a 30% investee. The subsidiary's equity in this investee's undistributed earnings is $18. Restrictive covenants of the subsidiary's debt agreements are as follows:

1. Net assets, excluding intercompany balances, cannot be less than $20.
2. 80% of accumulated earnings must be reinvested in the subsidiary.
3. Current ratio of 2:1 must be maintained.

Question

Are parent company footnote or schedule disclosures required?

Interpretive Response

Only the parent company footnote disclosures are required. The subsidiary's restricted net assets are computed as follows:

Restriction	Computed restrictions
• Net assets: currently $75, cannot be less than $20; therefore	$20
• Dividends: 80% of accumulated earnings ($45) cannot be paid; therefore	36
• Current ratio: must be at least 2:1 ($46 current assets must be maintained since current liabilities are $23 at fiscal year-end) therefore	46

Restricted net assets for purposes of the test are $20. The amount computed from the dividend restriction ($36) and the current ratio requirement ($46) are not used because net assets may be transferred by the subsidiary up to the limitation imposed by the requirement to maintain net assets of at least $20, without violating the other restrictions. For example, a transfer to the parent of up to $55 of net assets could be accomplished by a combination of dividends of current assets of $9 ($45–36), and loans or advances of current assets of up to $20 and noncurrent assets of up to $26.

Parent company footnote disclosures are required in this example since the restricted net assets of the subsidiary and the registrant's equity in the earnings of its 100%-owned subsidiary's investee exceed 25% of consolidated net assets [($20+18)/$130=29%]. The parent company schedule information is not required since the restricted net assets of the subsidiary are only 15% of consolidated net assets ($20/$130=15%).

Although the subsidiary's noncurrent assets are not in a form which is readily transferable to the parent company, the illiquid nature of the assets is not relevant for purposes of the parent company tests. The objective of the tests is to require parent company disclosures when the parent company does not have control of its subsidiaries' funds because it does not have unrestricted access to their net assets. The tests trigger parent company disclosures only when there are significant *third party* restrictions on transfers by subsidiaries of net assets and the subsidiaries' net assets comprise a significant portion of consolidated net assets. Practical limitations, other than third party restrictions on transferability at the measurement date (most recent fiscal year-end), such as subsidiary illiquidity,

are not considered in computing restricted net assets. However, the potential effect of any limitations other than those imposed by third parties should be considered for inclusion in Management's Discussion and Analysis of liquidity.

Facts

	Net assets
Subsidiary A	$(500)
Subsidiary B	2,000
Consolidated	3,700

Subsidiaries A and B are 100% owned by the registrant. Assume there are no consolidating adjustments to be allocated to the subsidiaries. Subsidiary A has restrictions amounting to $200. Subsidiary B's restrictions are $1,000.

Question

What parent company disclosures are required for the registrant?

Interpretive Response

Since subsidiary A has an excess of liabilities over assets, it has no restricted net assets for purposes of the test. However, both parent company footnote and schedule disclosures are required, since the restricted net assets of subsidiary B exceed 25% of consolidated net assets ($1,000/3,700=27%).

Facts

	Net assets
Subsidiary A	$850
Subsidiary B	300
Consolidated	3,700

The registrant owns 80% of subsidiary A. Subsidiary A owns 100% of subsidiary B. Assume there are no consolidating adjustments to be allocated to the subsidiaries. A may not pay any dividends or make any affiliate loans or advances. B has no restrictions. A's net assets of $850 do not include its investment in B.

Question

Are parent company footnote or schedule disclosures required for this registrant?

Interpretive Response

No. All of the registrant's share of subsidiary A's net assets ($680) are restricted. Although B may pay dividends and loan or advance funds to A, the parent's access to B's funds through A is restricted. However, since there are no limitations on B's ability to loan or advance funds to the parent, none of the parent's share of B's net assets are restricted. Since A's restricted net assets are less than 25% of consolidated net assets ($680/3,700=18%), no parent company disclosures are required.

Facts

The consolidating balance sheet of the registrant at the latest fiscal year-end is summarized as follows:

	Registrant	Subsidiary	Consolidating adjustments	Consolidated
Current assets	$800	$700		$1,500
30% Investment in affiliate	175			175
Investment in subsidiary	350		($350)	
Other noncurrent assets	625	300	(100)	825
Total	1,950	1,000	(450)	2,500
Current liabilities	600	400		1,000
Noncurrent liabilities	375	150		525
Redeemable preferred stock	275			275
Common stock	110	1	(1)	110
Paid-in capital	290	49	(49)	290
Retained earnings	300	400	(400)	300
Total	700	450	(450)	700
Grand Total	1,950	1,000	(450)	2,500

The acquisition of the 100%-owned subsidiary was consummated on the last day of the most recent fiscal year. Immediately preceding the acquisition, the registrant had net assets of $700, which included its equity in the undistributed earnings of its 30% investee of $75. Immediately after acquiring the subsidiary's net assets, which had an historical cost of $450 and a fair value of $350, the registrant's net assets were still $700 since debt and preferred stock totaling $350 were issued in the purchase. The subsidiary has debt covenants which permit dividends, loans or advances, to the extent, if any, that net assets exceed an amount which is determined by the sum of $100 plus 75% of the subsidiary's accummulated earnings.

Question

What is the amount of the subsidiary's restricted net assets? Are parent company footnote or schedule disclosures required?

Interpretive Response

Restricted net assets for purposes of the test are $350, and both the parent company footnote and schedule disclosures are required.

The amount of the subsidiary's *restrictions* at year-end is $400 [$100+(75%×$400)]. The subsidiary's *adjusted net assets* after the push down of the consolidation entry to the subsidiary to record the noncurrent assets acquired at their fair value is $350 ($450−$100). Since the subsidairy's adjusted net assets ($350) are less than the amount of its restrictions ($400), *restricted net assets* are $350. The computed percentages applicable to each of the disclosure tests is in excess of 25%. Therefore, both parent company footnote and schedule information are required. The percentage applicable to the footnote disclosure test is 61% [($75+350)/$700]. The computed percentage for the schedule disclosure is 50% ($350/$700).

3. Undistributed Earnings of 50% or Less Owned Persons

Facts

Rule 4–08(e)(2) of Regulation S–X requires footnote disclosure of the amount of consolidated retained earnings which represents undistributed earnings of 50% or less owned persons (investee) accounted for by the equity method. The test adopted in ASR 302 to trigger disclosures about the registrant's restricted net assets [Rule 4–08(e)(3)] includes the parent's equity in the undistributed earnings of investees.

Question

Is the amount required for footnote disclosure the same as the amount included in the test to determine disclosures about restrictions?

Interpretive Response

Yes. The amount used in the test in Rule 4–08(e)(3) should be the same as the amount required to be disclosed by Rule 4–08(e)(2). This is the portion of the registrant's consolidated retained earnings which represents the undistributed earnings of an investee since the date(s) of acquisition. It is computed by determining the registrant's cumulative equity in the investee's earnings, adjusted by any dividends received, related goodwill amortized, and any related income taxes provided.

4. Application of Significant Subsidiary Test to Investees and Unconsolidated Subsidiaries.

a. *Separate Financial Statement Requirements.*

Facts

Rule 3–09 of Regulation S–X requires the presentation of separate financial statements of unconsolidated subsidiaries and of 50% or less owned persons (investee) accounted for by the equity method either by the registrant or by a subsidiary of the registrant in filings with the Commission if any of the tests of a significant subsidiary are met at a 20% level.

Question 1

Are the requirements for separate financial statements also applicable to an investee accounted for by the equity method by an investee of the registrant?

Interpretive Response

Yes. Rule 3–09 is intended to apply to all investees which are material to the financial position or results of operations of the registrant, regardless of whether the investee is held by the registrant, a subsidiary or another investee. Separate financial statements should be provided for any lower tier investee where such an entity is significant to the registrant's consolidated financial statements.

Question 2

How is the significant subsidiary test applied to the lower tier investee in the situation described in Question 1?

Interpretive Response

Since the disclosures provided by separate financial statements of an investee are considered necessary to evaluate the overall financial condition of the registrant, the significant subsidiary test is computed based on the materiality of the lower tier investee to the registrant consolidated. An example of the application of the assets test of the significant subsidiary rules to such an investee situation will illustrate the materiality measurement. A registrant with total consolidated assets of $5,000 owns 50% of Investee A, whose total assets are $3,800. Investee A has a 45% investment in Investee B, whose total assets are $4,800. There are no intercompany eliminations. Separate financial statements are required for Investee A, and they are required for Investee B because the registrant's share of B's total assets exceeds 20% of consolidated assets [(50%×45%×$4,800)/$5,000=22%].

b. Summarized Financial Statement Requirements.

Facts

Rule 4–08(g) of Regulation S–X requires summarized financial information about unconsolidated subsidiaries and 50% or less owned persons (investee) to be included in the footnotes to the financial statements if, in the aggregate, they meet the tests of a significant subsidiary set forth in Rule 1–02(v).

Question 1

Must a registrant which includes separate financial statements or condensed financial statements for unconsolidated subsidiaries or investees in its annual report to shareholders also include in such report the summarized financial information for these entities pursuant to Rule 4–08(g)?

Interpretive Response

No. The purpose of the summarized information is to provide minimum standards of disclosure when the impact of such entities on the consolidated financial statements is significant. If the registrant furnishes more information in the annual report than is required by these minimum disclosure standards, such as condensed financial information or separate audited financial statements, the summarized data can be excluded. The Commission's rules are not intended to conflict with the provisions of APB Opinion No. 18, par. 20 (c) and (d), which provide that either separate financial statements of investees be presented with the financial statements of the reporting entity or that summarized information be included in the reporting entity's financial statement footnotes.

Question 2

Can summarized information be omitted for individual entities as long as the aggregate information for the omitted entity(s) does not exceed 10% under any of the significance tests of Rule 1–02(v)?

Interpretive Response

The 10% measurement level of the significant subsidiary rule was not intended to establish a materiality criteria for omission, and the arbitrary exclusion of summarized information for selected entities up to a 10% level is not appropriate. Rule 4–08(g) requires that the summarized information be included for all unconsolidated subsidiaries and investees. However, the staff recognizes that exclusion of the summarized information for certain entities is appropriate in some circumstances where it is impracticable to accumulate such information and the summarized information to be excluded is de minimis.

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17 CFR Part 241

[Release No. 34–18532]

Analysis of Results of 1981 Proxy Statement Disclosure Monitoring Program

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation of rules.

SUMMARY: The Securities and Exchange Commission today authorized issuance of a release analyzing the results of its 1981 proxy statement disclosure monitoring program and discussing proxy disclosure trends in the areas monitoring since 1979.

FOR FURTHER INFORMATION CONTACT: Gregory H. Mathews, (202) 272–2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In December 1978, the Commission amended its proxy rules in order to improve the information available to shareholders with respect to: (1) the existence of certain economic or personal relationships between directors or nominees and the issuer or its management ("6(b) relationship");[1] (2) the existence and functioning of the audit, compensation and nominating committees of the board of directors; (3) attendance at board and committee meetings; (4) compensation paid for board or committee service; and (5) director resignations.

In order to monitor operation of the new rules and the nature of resulting disclosures, the Division of Corporation Finance, in conjunction with the Directorate of Economic and Policy Analysis, instituted a three year

[1] Generally, Item 6(b) of Schedule 14A requires disclosure of whether each nominee or director is: (1) A former officer or employee; (2) a relative of an executive officer; (3) an officer, director, employee or 1 percent equity owner of an entity that is a significant creditor, supplier or customer of the issuer as defined in the item; (4) a member or employee of a law firm retained by the issuer; (5) a director, partner, officer or employee of an investment banking firm performing services for the issuer other than as a participating underwriter in a syndicate; or (6) a control person of the issuer (other than solely as a director of the issuer).

In February 1981, the Commission proposed amendments to Item 6(b), as well as other items of the proxy rules. These amendments will be considered as part of the Commission's general review of the rules governing proxy solicitations.

program to survey proxy statement disclosures about the board of directors beginning with the 1979 proxy season. The results of the 1979 Proxy Monitoring Program were published in September 1980, in the *Staff Report on Corporate Accountability.*[2] Analysis of the results of the 1980 Proxy Monitoring Program were published in February 1981.[3] Thus, this is the final release of the proxy monitoring program.

The results of Commission's proxy monitoring program provide a statistical profile of the boards of directors of over 9,000 issuers which are subject to the periodic reporting requirements of the Securities Exchange Act of 1934. The proxy monitoring program focuses on two key areas of information relating to the corporate accountability process—the composition of the board of directors and the composition and functioning of three major committees of the board (audit, compensation and nominating). The program also generates statistics about the nature of director compensation arrangements. All statistics are stratified according to the market in which the registrant's stock is traded and according to the asset size of the registrant.

Methodology

The sample of 1200 companies was selected in 1978 from the universe of companies subject to the Commission's proxy rules. The following categories of companies were excluded from the sample: (1) Companies which registered with the Commission after January 1, 1979; (2) companies filing 1979 proxy statements which either had a fiscal year that ended before December 31, 1978 or had filed a definitive proxy statement before January 16, 1979; (3) companies with proxy statements relating to proxy contests or to approvals of mergers, acquisitions, or business failures; and (4) investment companies. The sample was divided in four strata representing NYSE companies, AMEX companies, NASDAQ companies, and regional exchange or other non-NASDAQ over-the-counter companies.

The 1979, 1980 and 1981 programs attempted to survey these same 1200 issuers. With each succeeding year, however, the proxy statements of more companies were unavailable, because the proxy material had not been filed by the annual cut-off date of June 1, the company had de-registered or the proxy material filed involved a contested election or related to approval of a merger, acquisition or business failure.

The sample size for 1981 consisted of 961 issuers. The resulting sample stratification indicates an increase between 1979 and 1981 in the proportion of companies (from 41.6 percent to 43.3 percent) that have over $150 million in assets (Table 1). There also was an increase in the percentage of companies that are NYSE companies (from 28.8 percent to 30 percent) and a corresponding decrease in the number of AMEX companies (from 18.9 percent to 17.4 percent). Nevertheless, the sample still is representative of all reporting registrants for each category of company.

For each registrant in the sample, the staff completed a questionnaire eliciting 60 items of information relating to the disclosures about the board of directors contained in the proxy statement. The information obtained was machine processed, edited and cross-tabulated in a two way design, which takes account of trading market and asset size. The statistics include subtotals for each trading market category. The statistics shown for each market/assets category were tabulated directly from the data after adjusting for omissions from proxy statements of information required to be disclosed by Schedule 14A. The subtotal statistics, however, were estimated by taking a weighted average of the appropriate market/asset statistics.

II. Analysis

The analysis of the 1981 results focuses on the changes in board composition and functioning and in director compensation practices which have occurred over the three-year period covered by the proxy monitoring program.

A. Board Composition and Operation

The composition of boards of directors evolved substantially during the study period. The profile of the average board of directors (Table 2) reveals a 12.3 percent decline in the percentage of the board employed by the issuer or a subsidiary—from 35 percent in 1979 to 30.7 percent in 1981. There was a more significant 29 percent reduction in the percentage of directors having 6(b) relationships, from 29.4 percent down to 20.9 percent of the average board.

Table 6 indicates that 51.7 percent of all directors had employee or 6(b) relationships with the companies on whose boards they served, but a minority of all directors of large companies (over $150 million in assets) had such relationships. While the majority of companies had boards on which employee directors and directors with 6(b) relationships together constituted a majority of the board (Table 7), only 37 percent of the large companies had boards with a majority of directors employed by or affiliated with the issuer.

Analysis of the extent of specific types of Item 6(b) affiliations among directors further illuminates the nature of the changes in board composition which have occurred since 1979. Comparison of the 1979 and 1981 results reveals:

1. A 20 percent decline in the number of companies having a board member affiliated with a supplier or creditor (Table 5). 16.3 percent of issuers have such a person on their board in 1981 compared with the 20.6 percent which disclosed such relationships in their 1979 proxy statement. Only 2.6 percent of all directors have such affiliations, down from 3.7 percent in 1979 (Table 6).

2. A 25 percent decrease in the number of companies with retained counsel sitting on the board. While 43.3 percent of issuers still have at least one attorney-director, 57.6 percent reported having such directors in 1979.

3. A 51 percent decline in the number of registrants with an investment banker on the board. Only 9.9 percent of companies now have such directors, considerably reduced from the 20.1 percent who reported having such directors in the first survey, and only 1 percent of all directors are investment bankers compared to 2.4 percent of directors three years ago.

Several additional points may be made about the information presented in Table 5. First, the 1979–1981 decrease in the number of registrants having directors with 6(b) relationships was substantial for companies in all asset and trading market categories. Second, the fact that an increasing number of large issuers have no directors with certain 6(b) relationships appears to be the primary reason why a majority of such companies no longer have boards composed predominantly of employees or persons with 6(b) relationships.[4]

The average board size (11 directors) and average number of meetings per year (7) remained the same throughout the three year monitoring period. However, there was a continuation of the trend noted in last year's analysis

[2] Division of Corporation Finance, Securities and Exchange Commission, *Staff Report on Corporate Accountability*, 96th Cong., 2d Sess. (Comm. Print 1980) (Senate Comm. on Banking, Housing and Urban Affairs) (Hereinafter cited as *"Staff Report"*).

[3] Release No. 34–17518 (February 5, 1981) (46 FR 11954, Feb. 12, 1981).

[4] The number of large companies with employee directors actually increased slightly from 99.1 to 99.8 percent from 1979 to 1981, although the number of employee directors at large companies declined during the period from 28.3 percent of all such directors to approximately 25.8 percent.

toward activating previously inactive boards. During the study period, the number of companies that disclosed that their boards did not meet at all during the year declined by 96 percent (from 4.6 percent of all companies to 0.2 percent) (Table 2). Although there also was a 13 percent increase between 1979 and 1981 in the number of boards meeting at least 13 times annually, there was a slight decline between 1980 and 1981 in the number of boards meeting with this frequency.

B. Board Committees

The monitoring program gathers information about the extent to which issuers have established audit, compensation and nominating committees of the board of directors. The survey also indicates the proportion of each committee composed of persons who either are employed by or have a 6(b) relationship with the issuer. In addition, the monitoring program tabulates the functions performed by each committee.

1. *Audit Committee.* The percentage of companies with audit committees (Table 12) reached 86.4 percent in 1981. During the three year study period, the most substantial increase in companies having audit committees was experienced by companies under $50 million in assets (13 percent increase) and by American Stock Exchange companies (11 percent).[5]

The composition of audit committees also has changed considerably over the past three years. The 1979 monitoring program found that on the average 24.8 percent of the audit committee was composed of persons who were either employed by or affiliated with the registrant, but by 1981, this had decreased to 17.6 percent (Table 18.) Tables 15 and 16 provide more detailed information about the percentage of persons on committees who are either employed or affiliated with the issuer. In 1979, 84 percent of all companies had no employee directors serving on the audit committee, and this increased to 87 percent of all companies in 1981. In 1979, 57 percent of companies had no audit committee members with 6(b) relationships, and the proportion of companies in this category increased to 66 percent in 1981. Table 18 also contains information about the average number of times the audit committee met during the last fiscal year and the size of the committee.

Table 21 summarizes the frequency with which certain major functions are performed by audit committees. The 1981 results indicate a decline from 1979 in the percentage of committees that review the audit plan (from 74 percent down to 67.2 percent). The percentage of committees performing other major functions has changed little since 1979. The 1981 monitoring program surveyed, for the first time, the extent to which audit committees review interim financial results. The results indicate that 17.2 percent of audit committees perform this function.

2. *Compensation Committee.* The number of companies with compensation committees increased by 13.4 percent between 1979 and 1981, rising from 63.5 percent to 72 percent of all companies (Table 12). The extent of the increase was greatest among midsized ($50–150 million in assets) companies, which experienced a 21 percent growth in compensation committees during the study period. The average size of the compensation committee (Table 14) and the number of committee meetings per year (Table 13) has not changed measurably since the first survey.

In 1981, on the average, 12.1 percent of the compensation committee was employed by the issuer or its affiliates (Table 17) representing a 23 percent decline in such members from 1979. Fifteen percent of the average compensation committee had a 6(b) relationship, a 25 percent decrease from the 20 percent who had such affiliations in 1979. Table 20 summarizes the functions performed by compensation committees according to the 1981 proxy statements.

3. *Nominating Committee.* The number of nominating committees grew dramatically during the past three years. The 19.4 percent of companies with such committees in 1979 rose to 30.4 percent in 1981 (Table 19). The 1981 results indicate variation among companies with respect to the establishment of nominating committees. For example, while 55 percent of large NYSE listed companies have established such committees, only 14.3 percent of similar sized AMEX companies have done so.

In 1980, the Staff Report recommended that, "if there is not a substantial increase in the percentage of companies with independent nominating committees which consider shareholder nominations, the Commission should authorize the staff to develop a rule requiring companies to adopt a procedure for considering shareholder nominations."[6] The staff now has determined not to recommend such a rule.

Tables 15 and 16 indicate the percentage of committee members who are employed or have 6(b) relationships with the issuer. Table 22 summarizes the functions performed by nominating committees. This data indicates that 78 percent of the nominating committees consider shareholder nominations for director, a slight decline from the percentage that did so in 1979.

C. Director Compensation

This year, the tabulation of information concerning director compensation has been refined in several respects in order to make the data more meaningful. (Tables 9–11). The results indicate that 75.5 percent of the surveyed companies paid their directors an annual retainer for board service (Table 9). The amount of annual retainers increased steadily during the study period. In 1979, 63.5 percent of companies paid annual retainers of less than $6,000, but by 1981, only 50.7 percent of companies did so. This shift in compensation rates resulted in a 400 percent increase in the number of companies providing annual retainers of at least $20,000 (from .7 percent to 2.8 percent of companies); a 150 percent increase in companies paying between $15,000–19,999 (from 2.3 percent to 5.8 percent of companies); and a 55 percent increase in those providing retainers in the $10,000–$14,000 range (from 9.6 to 14.9 percent of companies).

Table 10 indicates the range of fees paid to directors per board meeting attended and reveals that 75 percent of the companies surveyed provide this type of compensation. There have been substantial increases in compensation rates in this category as well. Table 11 summarizes the compensation patterns of companies, including the fact that 58 percent of companies provide both an annual retainer for board service and an additional sum for committee service.

Accordingly, 17 CFR Part 241 is amended by adding reference to this release thereto.

By the Commission.

George A. Fitzsimmons,

Secretary.

March 3, 1982.

[5] In 1977, the New York Stock Exchange adopted a rule requiring each listed company to establish, by June 30, 1978, an audit committee composed solely of directors independent of management and free of any other relationship which would interfere with the exercise of independent judgment. *NYSE Company Manual*, A–29. Thereafter, no further changes were possible for this group of companies. It should be noted that between 1980 and 1981 alone, the number of AMEX companies with audit committees increased by over 9%. This development followed the strong recommendation of the Board of Governors of the Exchange that listed companies establish audit committees composed entirely of independent directors. *See generally* Securities Exchange Act Release No. 16542 (January 24, 1980).

[6] *Staff Report* at 131.

List of Tables

TABLE 1.—SAMPLE STRATIFICATION

Companies by size and trading market	Actual count	Percent of total sample
All companies	961	100.00
Over $150 million assets	417	43.3
$50 to $150 million assets	206	21.4
0 to $50 million assets	338	35.1
NYSE	289	30.0
Over $150 million assets	211	21.9
$50 to $150 million assets	65	6.7
0 to $50 million assets	13	1.3
AMEX	168	17.4
Over $150 million assets	21	2.1
$50 to $150 million assets	52	5.4
0 to $50 million assets	95	9.8
NASDAQ—Other	504	52.4
Over $150 million assets	185	19.2
$50 to $150 million assets	89	9.2
0 to $50 million assets	230	23.9

TABLE 2.—PROFILE OF BOARDS OF DIRECTORS

[Sample means]

Companies by size and trading market	Size of board	Number of meetings per year	Percent employed by issuer or affiliate	Percent of board having item 6(b) relationships
All companies	10.9	7.2	30.7	20.9
Over $150 million assets	14.1	8.3	25.8	17.9
$50 to $150 million assets	9.6	6.5	35.6	24.5
0 to $50 million assets	7.8	6.3	38.0	25.0
NYSE	12.1	8.0	30.2	20.4
Over $150 million assets	13.1	8.5	28.9	20.1
$50 to $150 million assets	9.5	6.6	36.0	21.7
0 to $50 million assets	7.8	5.9	31.3	21.5
AMEX	8.8	6.2	38.1	25.6
Over $150 million assets	12.5	6.8	37.6	23.1
$50 to $150 million assets	9.6	6.3	36.3	25.1
0 to $50 million assets	7.5	6.0	39.6	26.9
NASDAQ—other	10.9	7.1	29.0	20.0
Over $150 million assets	15.3	8.1	21.7	15.3
$50 to $150 million assets	9.7	6.5	34.9	26.2
0 to $50 million assets	7.9	6.5	37.7	24.4

TABLE 3.—SIZE OF BOARD

[Frequency Distribution Percent]

Companies by size and trading market	Number of individuals				
	1 to 4	5 to 9	10 to 14	15 to 19	20 and above
All companies	1.9	46.3	33.1	11.6	7.2
Over $150 million assets	0.2	17.0	43.9	23.3	15.6
$50 to $150 million assets	1.0	53.9	40.3	3.9	1.0
0 to $50 million assets	4.4	77.8	15.4	1.8	0.6
NYSE	0.0	28.4	49.1	16.3	6.2
Over $150 million assets	0.0	15.2	55.5	21.3	8.1
$50 to $150 million assets	0.0	60.0	35.4	3.1	1.5
0 to $50 million assets	0.0	84.6	15.4	0.0	0.0
AMEX	3.0	64.3	27.4	4.8	0.6
Over $150 million assets	0.0	19.0	52.4	23.8	4.8
$50 to $150 million assets	1.9	51.9	40.4	5.8	0.0
0 to $50 million assets	4.2	81.1	14.7	0.0	0.0
NASDAQ—other	2.6	50.6	25.8	11.1	9.9
Over $150 million assets	0.5	18.9	29.7	25.4	25.4
$50 to $150 million assets	1.1	50.6	43.8	3.4	1.1
0 to $50 million assets	4.8	76.1	15.7	2.6	0.9

TABLE 4.—PERSONS EMPLOYED BY ISSUER OR AFFILIATE AS PERCENT OF BOARD MEMBERSHIP

[Frequency distribution]

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
All companies	0.9	40.3	43.5	11.6	3.5
Over $150 million assets	0.9	54.5	37.5	4.8	2.1
$50 to $150 million assets	0.9	33.4	46.6	16.0	2.9
0 to $50 million assets	0.8	26.9	49.1	17.4	5.6
NYSE	0.3	44.7	46.8	6.2	1.7
Over $150 million assets	0.4	47.6	46.1	4.2	1.4
$50 to $150 million assets	0.0	36.9	47.6	12.3	3.0
0 to $50 million assets	0.0	38.4	53.8	7.6	0.0
AMEX	1.1	25.5	45.8	23.2	4.1
Over $150 million assets	0.0	33.3	33.3	28.5	4.7
$50 to $150 million assets	1.9	28.8	48.0	19.2	1.9
0 to $50 million assets	1.0	22.1	47.3	24.2	5.2
NASDAQ—other	1.1	42.6	40.8	10.9	4.3
Over $150 million assets	1.6	64.8	28.1	2.7	2.7
$50 to $150 million assets	1.1	33.7	44.9	16.8	3.3
0 to $50 million assets	0.8	28.2	49.5	15.2	6.0

TABLE 5.—PERCENT OF ISSUERS HAVING CERTAIN RELATIONSHIPS WITH A DIRECTOR

[Sample means]

Companies by size and trading market	Employee of issuer or affiliate	Former officer or employee	Relative of executive officer	Supplier or customer	Creditor	Attorney	Investment banker	Control person
All companies	99.9	31.4	22.4	16.3	19.9	43.3	9.9	13.4
Over $150 million assets	99.8	34.5	16.5	22.1	24.7	39.8	9.1	8.9
$50 to $150 million assets	100.0	36.9	26.7	13.1	23.3	44.7	13.1	11.7
0 to $50 million assets	100.0	24.3	26.9	11.2	11.8	46.7	8.9	19.8
NYSE	99.7	37.7	12.8	21.5	29.8	37.7	11.4	5.9
Over $150 million assets	99.5	37.9	11.8	24.6	33.6	36.5	10.9	5.2
$50 to $150 million assets	100.0	40.0	13.8	10.8	21.5	41.5	12.3	7.7
0 to $50 million assets	100.0	23.1	23.1	23.1	7.7	38.5	15.4	7.7
AMEX	100.0	25.6	33.3	12.5	16.7	44.0	8.9	19.6
Over $150 million assets	100.0	23.8	47.6	9.5	23.8	42.9	9.5	14.3
$50 to $150 million assets	100.0	32.7	36.5	11.5	21.2	32.7	9.6	21.2
0 to $50 million assets	100.0	22.1	28.4	13.7	12.6	50.5	8.4	20.0
NASDAQ—other	100.0	29.8	24.2	14.7	15.3	46.2	9.3	15.5
Over $150 million assets	100.0	31.9	18.4	20.5	14.6	43.2	7.0	12.4
$50 to $150 million assets	100.0	37.1	30.3	15.7	25.8	53.9	15.7	9.0
0 to $50 million assets	100.0	25.2	26.5	9.6	11.7	45.7	8.7	20.4

TABLE 6.—PERCENT OF DIRECTORS HAVING CERTAIN RELATIONSHIPS WITH ISSUER

[Sample means]

Companies by size and trading market	Employee of issuer or affiliate	Former officer or employee	Relative of executive officer	Supplier or customer	Creditor	Attorney	Investment banker	Control person	Any 6(b)/ employee relationship
All companies	30.8	3.7	3.3	2.6	3.6	4.8	1.0	2.0	51.7
Over $150 million assets	25.8	3.3	2.1	2.9	3.9	3.8	0.7	1.2	43.8
$50 to $150 million assets	35.6	5.2	4.2	2.3	4.1	5.2	1.5	2.1	60.2
0 to $50 million assets	38.0	3.7	5.1	2.2	2.3	6.8	1.2	3.7	63.0
NYSE	30.3	4.0	1.8	3.1	5.8	3.7	1.1	1.0	50.7
Over $150 million assets	28.9	3.8	1.7	3.2	6.3	3.4	0.9	0.8	49.1
$50 to $150 million assets	36.0	4.8	2.1	2.3	4.7	4.8	1.4	1.6	57.7
0 to $50 million assets	31.4	3.9	3.9	3.9	1.0	4.9	2.9	1.0	52.9
AMEX	38.2	4.0	6.1	1.9	3.0	5.9	1.0	3.7	63.9
Over $150 million assets	37.6	3.4	7.2	1.5	4.6	4.2	0.8	1.5	60.8
$50 to $150 million assets	36.3	4.4	6.2	2.0	3.4	4.2	1.0	4.0	61.5
0 to $50 million assets	39.6	4.0	5.6	1.9	2.2	7.8	1.1	4.3	66.6
NASDAQ—other	29.1	3.5	3.5	2.5	2.3	5.2	0.9	2.2	49.1
Over $150 million assets	21.8	2.7	2.1	2.7	1.6	4.1	0.5	1.6	37.1
$50 to $150 million assets	34.9	5.9	4.6	2.5	4.1	6.0	1.7	1.4	61.1
0 to $50 million assets	37.8	3.6	5.0	2.1	2.5	6.5	1.2	3.6	62.2

TABLE 7.—DIRECTORS HAVING AN EMPLOYEE OR 6(B) RELATIONSHIP AS PERCENT OF BOARD

[Frequency distribution]

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
All companies	0.2	13.9	33.5	26.5	25.8
Over $150 million assets	0.2	21.8	40.5	23.5	13.9
Over $50 to $150 million assets	0.0	8.5	32.0	28.2	31.6
Over 0 to $50 million assets	0.3	7.7	25.7	29.3	37.0
NYSE	0.3	13.1	41.5	28.0	17.0
Over $150 million assets	0.5	13.7	43.6	28.4	13.7
Over $50 to $150 million assets	0.0	9.2	38.5	26.2	26.2
Over 0 to $50 million assets	0.0	23.1	23.1	30.8	23.1
AMEX	0.0	6.5	29.2	25.0	39.3
Over $150 million assets	0.0	14.3	19.0	23.8	42.9
Over $50 to $150 million assets	0.0	5.8	34.6	26.9	32.7
Over 0 to $50 million assets	0.0	5.3	28.4	24.2	42.1
NASDAQ—other	0.2	16.9	30.4	26.2	26.4
Over $150 million assets	0.0	31.9	39.5	17.8	10.8
Over $50 to $150 million assets	0.0	9.0	25.8	30.3	34.8
Over 0 to $50 million assets	0.5	7.8	24.8	31.3	35.7

TABLE 8.—NUMBER OF BOARD MEETINGS PER YEAR

[Frequency distribution percent]

Companies by size and trading market	Number of meetings				
	0	1 to 4	5 to 8	9 to 12	13 and above
All companies	0.2	23.9	45.8	22.4	7.7
Over $150 million assets	0.2	13.9	42.2	32.9	10.8
$50 to $150 million assets	0.5	30.6	49.0	14.6	5.3
0 to $50 million assets	0.5	32.2	48.2	14.2	5.3
NYSE	0.7	13.1	45.7	31.8	8.7
Over $150 million assets	0.5	8.5	42.2	38.4	10.4
$50 to $150 million assets	1.5	24.6	53.8	15.4	4.6
0 to $50 million assets	0.0	30.8	61.5	7.7	0.0
AMEX	0.0	32.7	49.4	15.5	2.4
Over $150 million assets	0.0	23.8	52.4	23.8	0.0
$50 to $500 million assets	0.0	34.6	48.1	15.4	1.9
0 to $50 million assets	0.0	33.7	49.5	13.7	3.2
NASDAQ—other	0.0	27.2	44.6	19.2	8.9
Over $150 million assets	0.0	18.9	41.1	27.6	12.4
$50 to $150 million assets	0.0	32.6	46.1	13.5	7.9
0 to $50 million assets	0.0	31.7	47.0	14.8	6.5

TABLE 9.—RANGE OF DIRECTOR COMPENSATION ON AN ANNUAL RETAINER BASIS

[Frequency distribution, percent]

Companies by size and trading market	Annual compensation						
	Annual retainer	$20,000 and more	$15,000 to $19,999	$10,000 to $14,999	$6,000 to $9,999	$3,000 to $5,999	Less than $3,000
All companies	75.5	2.8	5.8	14.9	25.9	29.6	21.1
Over $150 million assets	84.4	4.5	9.9	22.2	26.7	21.0	15.6
$50 to $150 million assets	80.1	0.6	1.8	11.5	37.6	31.5	17.1
0 to $50 million assets	61.8	1.4	1.9	5.3	15.3	42.6	33.5
NYSE	93.1	5.2	11.9	28.6	34.6	14.9	4.8
Over $150 million assets	95.3	7.0	14.9	33.3	31.8	10.4	2.5
$50 to $150 million assets	87.7	0.0	3.5	14.0	49.1	26.3	7.0
0 to $50 million assets	84.6	0.0	0.0	18.2	9.1	36.4	36.4
AMEX	74.4	0.0	0.8	7.2	27.2	40.8	24.0
Over $150 million assets	85.7	0.0	5.6	16.7	44.4	33.3	0.0
$50 to $150 million assets	78.8	0.0	0.0	7.3	29.3	46.3	17.1
0 to $50 million assets	69.5	0.0	0.0	4.5	21.2	39.4	34.8
NASDAQ—other	65.9	1.8	2.7	6.6	18.4	37.3	33.1
Over $150 million assets	71.9	1.5	3.0	6.0	16.5	35.3	37.6
$50 to $150 million assets	75.3	1.5	1.5	11.9	32.8	26.9	25.4
0 to $50 million assets	57.4	2.3	3.0	4.5	12.9	44.7	32.6

TABLE 10.—RANGE OF DIRECTOR FEES PAID PER BOARD MEETING ATTENDED

[Frequency distribution, percent]

Companies by size and trading market	Fees paid per meeting						
	Directors paid	$1,000 or more	$750 to $999	$500 to $749	$250 to $499	$100 to $249	Less than $100
All companies	75.4	6.3	4.7	32.6	35.4	18.5	2.5
Over $150 million assets	89.7	6.2	1.8	38.9	40.7	11.5	0.9
$50 to $150 million assets	77.7	6.9	8.8	30.0	38.8	13.8	1.9
0 to $50 million assets	65.7	5.4	3.6	23.9	38.3	25.2	3.6
NYSE	79.9	7.4	7.8	55.4	25.1	3.9	0.4
Over $150 million assets	81.0	7.6	5.8	60.2	23.4	2.3	0.6
$50 to $150 million assets	75.4	6.2	14.3	40.8	30.6	6.1	0.0
0 to $50 million assets	84.6	0.0	9.1	45.5	27.3	18.2	0.0
AMEX	72.6	8.2	4.9	34.4	37.7	13.9	0.8
Over $150 million assets	95.2	15.0	0.0	40.0	35.0	10.0	0.0
$50 to $150 million assets	76.9	5.0	10.0	32.5	42.5	10.0	0.0
0 to $50 million assets	65.3	8.1	3.2	33.9	35.5	17.7	1.6
NASDAQ—other	73.8	5.1	2.7	17.7	41.1	29.0	4.3
Over $150 million assets	82.2	4.6	1.3	15.8	41.4	32.9	3.9
$50 to $150 million assets	79.8	7.0	4.2	21.1	42.3	21.1	4.2
0 to $50 million assets	64.8	4.7	3.4	18.1	40.3	28.9	4.7

TABLE 11.—COMPANIES PAYING CERTAIN PATTERNS OF DIRECTOR COMPENSATION

[Percent]

Companies by size and trading market	Annual retainer for board	Annual retainer for board and committee membership	Annual retainer for board and per board meeting	Annual retainer for committee service or per meeting of committee	Annual retainer for board and any compensation for committee service
All companies	75.5	11.1	56.7	68.7	58.3
Over $150 million assets	84.4	14.1	69.8	82.0	72.2
$50 to $100 million assets	80.1	8.7	60.2	71.8	61.2
0 to $50 million assets	61.8	8.9	38.5	50.3	39.3
NYSE	93.1	17.3	74.7	85.5	81.3
Over $150 million assets	95.3	19.0	78.2	86.3	83.4
$50 to $100 million assets	87.7	10.8	64.6	81.5	73.8
0 to $50 million assets	84.6	23.1	69.2	92.3	84.6
AMEX	74.4	13.1	52.4	60.1	48.2
Over $150 million assets	85.7	14.3	81.0	76.2	66.7
$50 to $100 million assets	78.8	9.6	57.7	69.2	53.8
0 to $50 million assets	69.5	14.7	43.2	51.6	41.1
NASDAQ—other	65.9	6.9	47.8	61.9	48.4
Over $150 million assets	71.9	8.6	58.9	77.8	60.0
$50 to $100 million assets	75.3	6.7	58.4	66.3	56.2
0 to $50 million assets	57.4	5.7	34.8	47.4	36.1

TABLE 12.—PERCENT OF COMPANIES HAVING COMMITTEES

[Sample means]

Companies by size and trading market	Audit committee	Compensation committee	Nominating committee
All companies	86.4	72.0	30.4
Over $150 million assets	95.0	81.5	45.5
$50 to $150 million assets	90.3	79.6	22.3
0 to $50 million assets	73.4	55.6	17.2
NYSE	99.0	90.0	48.4
Over $150 million assets	99.1	91.9	55.0
$50 to $150 million assets	98.5	84.6	29.2
0 to $50 million assets	100.0	84.6	38.5
AMEX	86.9	66.7	20.2
Over $150 million assets	95.2	81.0	14.3
$50 to $150 million assets	92.3	82.7	26.9
0 to $50 million assets	82.1	54.7	17.9
NASDAQ—other	79.0	63.5	23.4
Over $150 million assets	90.3	69.7	37.3
$50 to $150 million assets	83.1	74.2	14.6
0 to $50 million assets	68.3	54.3	15.7

TABLE 13.—NUMBER OF COMMITTEE MEETINGS PER YEAR

[Sample means]

Companies by size and trading market	Audit committee	Compensation committee	Nominating committee
All companies	3.0	3.1	2.3
Over $150 million assets	3.4	3.7	2.5
$50 to $150 million assets	2.7	2.8	2.1
0 to $50 million assets	2.4	2.2	1.6
NYSE	3.2	3.9	2.5
Over $150 million assets	3.3	4.1	2.6
$50 to $150 million assets	2.9	3.5	1.5
0 to $50 million assets	2.5	3.0	2.4
AMEX	2.4	2.2	1.7
Over $150 million assets	2.8	2.1	1.0
$50 to $150 million assets	2.5	2.4	2.3
0 to $50 million assets	2.2	2.1	1.4
NASDAQ—other	3.0	2.7	2.2
Over $150 million assets	3.7	3.4	2.3
$50 to $150 million assets	2.7	2.4	2.8
0 to $50 million assets	2.4	2.1	1.7

TABLE 14.—NUMBER OF COMMITTEE MEMBERS

[Sample means]

Companies by size and trading market	Audit committee	Compensation committee	Nominating committee
All companies	3.6	3.9	4.5
Over $150 million assets	4.0	4.3	4.8
$50 to $150 million assets	3.3	3.7	4.2
0 to $50 million assets	3.2	3.6	4.0
NYSE	3.7	4.1	4.4
Over $150 million assets	3.9	4.2	4.5
$50 to $150 million assets	3.2	3.8	4.1
0 to $50 million assets	3.5	3.4	3.0
AMEX	3.3	3.7	4.4
Over $150 million assets	3.9	3.8	5.3
$50 to $150 million assets	3.4	3.6	4.6
0 to $50 million assets	3.2	3.7	4.2
NASDAQ—other	3.6	3.9	4.7
Over $150 million assets	4.1	4.4	5.2
$50 to $150 million assets	3.3	3.7	4.2
0 to $50 million assets	3.2	3.6	4.1

TABLE 15-1.—PERCENT OF PERSONS ON COMMITTEES EMPLOYED BY ISSUER OR ITS AFFILIATES: ALL COMPANIES

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	86.9	4.9	6.4	1.2	0.6
Over $150 million assets	91.7	3.0	3.5	1.3	0.5
$50 to $150 million assets	85.5	5.9	7.5	0.5	0.5
0 to $50 million assets	80.2	7.3	10.1	1.6	0.8
Compensation	67.2	12.6	15.9	3.0	1.3
Over $150 million assets	74.4	12.4	9.4	1.8	2.1
$50 to $150 million assets	62.2	12.8	19.5	4.9	0.6
0 to $50 million assets	58.5	12.8	24.5	3.7	0.5
Nominating	48.6	21.9	22.3	5.1	2.1
Over $150 million assets	54.3	25.5	15.4	3.7	1.1
$50 to $150 million assets	41.3	13.0	28.3	10.9	6.5
0 to $50 million assets	36.2	17.2	39.7	5.2	1.7

TABLE 15-2.—PERCENT OF PERSONS ON COMMITTEES EMPLOYED BY ISSUER OR ITS AFFILIATES: NYSE

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	93.7	2.4	2.8	0.7	0.3
Over $150 million assets	94.7	1.9	1.9	1.0	0.5
$50 to $150 million assets	90.6	4.7	4.7	0.0	0.0
0 to $50 million assets	92.3	0.0	7.7	0.0	0.0
Compensation	78.1	10.4	9.2	1.5	0.8
Over $150 million assets	81.4	9.8	6.2	1.5	1.0
$50 to $150 million assets	67.3	9.1	21.8	1.8	0.0
0 to $50 million assets	72.7	27.3	0.0	0.0	0.0
Nominating	52.1	22.1	18.6	7.1	0.0
Over $150 million assets	54.3	25.0	14.7	6.0	0.0
$50 to $150 million assets	47.4	5.3	31.6	15.8	0.0
0 to $50 million assets	20.0	20.0	60.0	0.0	0.0

TABLE 15-3.—PERCENT OF PERSONS ON COMMITTEES EMPLOYED BY ISSUER OR ITS AFFILIATES: AMEX

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	77.4	6.8	13.0	2.7	0.0
Over $150 million assets	60.0	15.0	20.0	5.0	0.0
$50 to $150 million assets	81.3	6.3	12.5	0.0	0.0
0 to $50 million assets	79.5	5.1	11.5	3.8	0.0
Compensation	55.4	15.2	23.2	6.3	0.0
Over $150 million assets	58.8	17.6	17.6	5.9	0.0
$50 to $150 million assets	60.5	16.3	16.3	7.0	0.0
0 to $50 million assets	50.0	13.5	30.8	5.8	0.0
Nominating	38.2	11.8	35.3	11.8	2.9
Over $150 million assets	33.3	33.3	6.0	0.0	33.3
$50 to $150 million assets	50.0	21.4	14.3	14.3	0.0
0 to $50 million assets	29.4	0.0	58.8	11.8	0.0

TABLE 15-4.—PERCENT OF PERSONS ON COMMITTEES EMPLOYED BY ISSUER OR ITS AFFILIATES: NASDAQ—OTHER

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	85.4	6.0	6.5	1.0	1.0
Over $150 million assets	91.6	3.0	3.6	1.2	0.6
$50 to $150 million assets	83.8	6.8	6.8	1.4	1.4
0 to $50 million assets	79.6	8.9	9.6	0.6	1.3
Compensation	65.5	13.4	18.8	3.1	2.2
Over $150 million assets	65.9	15.5	13.2	1.6	3.9
$50 to $150 million assets	59.1	13.6	19.7	6.1	1.5
0 to $50 million assets	60.8	11.2	24.0	3.2	0.8
Nominating	37.5	24.6	22.9	0.8	4.2
Over $150 million assets	55.1	26.1	17.4	0.0	1.4
$50 to $150 million assets	23.1	15.4	38.5	0.0	23.1
0 to $50 million assets	41.7	25.0	27.8	2.8	2.8

TABLE 16-1.—PERCENT OF PERSONS ON COMMITTEES HAVING A 6(b) RELATIONSHIP: ALL COMPANIES

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	66.0	9.4	18.2	4.1	2.3
Over $150 million assets	71.0	11.4	12.6	3.8	1.3
$50 to $150 million assets	62.9	7.5	24.2	4.3	1.1
0 to $50 million assets	60.5	7.7	22.6	4.4	4.8
Compensation	61.8	12.2	18.6	5.3	1.7
Over $150 million assets	66.4	12.6	15.9	5.3	1.8
$50 to $150 million assets	64.6	12.8	15.9	4.3	2.4
0 to $50 million assets	54.8	11.7	26.1	6.4	1.1

TABLE 16–1.—PERCENT OF PERSONS ON COMMITTEES HAVING A 6(b) RELATIONSHIP: ALL COMPANIES—Continued

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Nominating	59.2	17.8	16.8	4.1	2.1
Over $150 million assets	61.2	19.1	13.3	4.3	2.1
$50 to $150 million assets	63.0	13.0	17.4	4.3	2.2
0 to $50 million assets	50.0	17.2	27.6	3.4	1.7

TABLE 16–2.—PERCENT OF PERSONS ON COMMITTEES HAVING A 6(b) RELATIONSHIP: NYSE

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	70.3	9.4	15.7	3.5	1.0
Over $150 million assets	70.8	11.0	13.9	3.3	1.0
$50 to $150 million assets	71.9	4.7	18.8	3.1	1.6
0 to $50 million assets	53.8	7.7	30.8	7.7	0.0
Compensation	68.8	10.0	16.2	4.6	0.4
Over $150 million assets	67.0	11.3	15.5	5.7	0.5
$50 to $150 million assets	76.4	5.5	16.4	1.8	0.0
0 to $50 million assets	63.6	9.1	27.3	0.0	0.0
Nominating	63.6	15.0	13.6	6.4	1.4
Over $150 million assets	62.9	17.2	12.9	6.0	0.9
$50 to $150 million assets	68.4	5.3	15.8	10.5	0.0
0 to $50 million assets	60.0	0.0	20.0	0.0	20.0

TABLE 16–3.—PERCENT OF PERSONS ON COMMITTEES HAVING A 6(b) RELATIONSHIP: AMEX

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	62.3	7.5	19.9	5.5	4.8
Over $150 million assets	65.0	15.0	15.0	5.0	0.0
$50 to $150 million assets	66.7	4.2	22.9	4.2	2.1
0 to $50 million assets	59.0	7.7	19.2	6.4	7.7
Compensation	57.1	17.9	14.3	9.8	0.9
Over $150 million assets	52.9	11.8	17.6	11.8	5.9
$50 to $150 million assets	60.5	25.6	7.0	7.0	0.0
0 to $50 million assets	55.8	13.5	19.2	11.5	0.0
Nominating	55.9	23.5	14.7	5.9	0.0
Over $150 million assets	100.0	0.0	0.0	0.0	0.0
$50 to $150 million assets	64.3	35.7	0.0	0.0	0.0
0 to $50 million assets	41.2	17.6	29.4	11.8	0.0

TABLE 16–4—PERCENT OF PERSONS ON COMMITTEES HAVING A 6(b) RELATIONSHIP: NASDAQ—OTHER

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	64.3	10.1	19.3	4.0	2.3
Over $150 million assets	71.9	11.4	10.8	4.2	1.8
$50 to $150 million assets	52.7	12.2	29.7	5.4	0.0
0 to $50 million assets	61.8	7.6	23.6	3.2	3.8
Compensation	57.8	12.5	22.2	4.4	3.1
Over $150 million assets	62.0	14.7	16.3	3.9	3.1
$50 to $150 million assets	57.6	10.8	21.2	4.5	6.1
0 to $50 million assets	53.6	11.2	28.8	4.8	1.6
Nominating	55.1	19.5	21.2	0.8	3.4
Over $150 million assets	56.5	23.2	14.5	1.4	4.3
$50 to $150 million assets	53.8	0.0	38.5	0.0	7.7
0 to $50 million assets	52.8	19.4	27.8	0.0	0.0

TABLE 17.—PROFILE: COMPENSATION COMMITTEES

[Sample means]

Companies by size and trading market	Percent having committees	Size	Number of meetings	Percent employed by issuer or affiliate	Percent having 6(b) relationship
All companies	72.0	3.9	3.1	12.1	15.0
Over $150 million assets	81.5	4.3	3.7	9.6	14.2
$50 to $150 million assets	79.6	3.7	2.8	14.1	14.1
0 to $50 million assets	55.6	3.6	2.2	15.8	17.4
NYSE	90.0	4.1	3.9	7.8	12.6

TABLE 17.—PROFILE: COMPENSATION COMMITTEES—Continued

[Sample means]

Companies by size and trading market	Percent having committees	Size	Number of meetings	Percent employed by issuer or affiliate	Percent having 6(b) relationship
Over $150 million assets	91.9	4.2	4.1	6.8	13.4
$50 to $150 million assets	84.6	3.8	3.5	12.0	9.1
0 to $50 million assets	84.6	3.4	3.0	8.1	13.5
AMEX	66.7	3.6	2.2	16.6	16.1
Over $150 million assets	81.0	3.8	2.1	13.8	20.0
$50 to $150 million assets	82.7	3.6	2.4	14.9	13.6
0 to $50 million assets	54.7	3.7	2.1	18.9	16.8
NASDAQ—other	63.5	3.9	2.7	14.3	16.6
Over $150 million assets	69.7	4.4	3.4	13.2	14.7
$50 to $150 million assets	74.2	3.7	2.4	15.3	18.6
0 to $50 million assets	54.3	3.6	2.1	15.1	18.0

TABLE 18.—PROFILE: AUDIT COMMITTEES

[Sample means]

Companies by size and trading market	Percent having committees	Size	Number of meetings	Percent employed by issuer or affiliate	Percent having 6(b) relationship
All companies	86.4	3.6	3.0	4.5	13.1
Over $150 million assets	95.0	4.0	3.4	3.0	10.2
$50 to $150 million assets	90.3	3.3	2.7	4.9	15.1
0 to $50 million assets	73.4	3.2	2.4	7.3	17.3
NYSE	99.0	3.7	3.2	2.3	11.4
Over $150 million assets	99.1	3.9	3.3	2.2	11.1
$50 to $150 million assets	98.5	3.2	2.9	2.9	12.1
0 to $50 million assets	100.0	3.5	2.5	2.2	15.6
AMEX	86.9	3.3	2.4	8.0	16.4
Over $150 million assets	95.2	3.9	2.8	12.8	10.3
$50 to $150 million assets	92.3	3.4	2.5	5.6	14.8
0 to $50 million assets	82.1	3.2	2.2	8.1	19.4
NASDAQ—other	79.0	3.6	3.0	5.0	13.2
Over $150 million assets	90.3	4.1	3.7	2.9	9.2
$50 to $150 million assets	83.1	3.3	2.7	6.1	18.0
0 to $50 million assets	68.3	3.2	2.4	7.3	16.4

TABLE 19.—PROFILE: NOMINATING COMMITTEES

[Sample means]

Companies by size and trading market	Percent having committees	Size	Number of meetings	Percent employed by issuer or affiliate	Percent having 6(b) relationship
All companies	30.4	4.5	2.3	18.5	14.6
Over $150 million assets	45.1	4.8	2.5	15.1	13.7
$50 to $150 million assets	22.3	4.2	2.1	25.6	13.3
0 to $50 million assets	17.2	4.0	1.6	25.4	19.0
NYSE	48.4	4.4	2.5	16.4	14.1
Over $150 million assets	55.0	4.5	2.6	15.2	14.3
$50 to $150 million assets	29.2	4.1	1.5	22.1	11.7
0 to $50 million assets	38.5	3.0	2.4	26.7	20.0
AMEX	20.2	4.4	1.7	27.8	15.2
Over $150 million assets	14.3	5.3	1.0	31.3	0.0
$50 to $150 million assets	26.9	4.6	2.3	20.3	7.8
0 to $50 million assets	17.9	4.2	1.4	33.8	25.4
NASDAQ—other	23.4	4.7	2.2	18.2	15.0
Over $150 million assets	37.3	5.2	2.3	14.2	13.6
$50 to $150 million assets	14.6	4.2	2.8	37.0	22.2
0 to $50 million assets	15.7	4.1	1.7	21.2	15.8

TABLE 20.—COMPENSATION COMMITTEE FUNCTIONS

[Sample means]

Companies by size and trading market	Percent approve or recommend compensation for senior management	Percent adopt compensation plans in which officers may participate	Percent administer stock option plans	Percent review compensation policies	Percent review director compensation	Percent other functions
All companies	92.8	42.9	37.7	63.4	22.1	28.8
Over $150 million assets	92.1	47.9	42.4	67.1	26.8	33.5
$50 to $150 million assets	93.9	42.1	37.1	61.0	17.7	27.4
0 to $50 million assets	93.1	34.6	29.8	59.0	17.6	21.3
NYSE	93.8	50.8	51.2	68.8	25.0	33.1
Over $150 million assets	93.8	52.1	53.1	70.6	27.8	33.5
$50 to $150 million assets	96.4	52.7	45.5	70.9	20.0	30.9
0 to $50 million assets	81.8	18.2	45.5	27.3	0.0	36.4
AMEX	93.8	35.7	26.8	61.6	22.3	21.4
Over $150 million assets	88.2	52.9	41.2	58.8	41.2	17.6
$50 to $150 million assets	93.0	37.2	27.9	48.8	16.3	27.9
0 to $50 million assets	96.2	28.8	21.2	73.1	21.2	17.3
NASDAQ—other	91.6	39.1	30.6	59.7	19.7	27.8
Over $150 million assets	89.9	41.1	26.4	62.8	23.3	35.7
$50 to $150 million assets	92.4	36.4	36.4	60.6	16.7	24.2
0 to $50 million assets	92.8	38.4	32.0	56.0	17.6	21.6

TABLE 21.—AUDIT COMMITTEE FUNCTIONS

[Sample means]

Companies by size and trading market	Percent engage and percent discharge	Percent direct investigations	Percent review	Percent review audit results	Percent approve each professional service	Consider range of audit and non-audit fee	Percent review adequacy of internal control	Percent review iterim financial
All companies	70.4	10.0	67.2	84.5	53.9	42.8	73.9	17.2
Over $150 million assets	73.0	11.4	69.7	85.9	59.3	45.2	80.1	19.7
$50 to $150 million assets	67.7	7.5	64.5	82.8	55.9	43.5	67.7	16.1
0 to $50 million assets	68.1	9.7	65.3	83.5	43.5	38.3	68.5	14.1
NYSE	75.5	12.6	69.9	86.0	64.0	49.7	81.1	20.3
Over $150 million assets	78.9	13.9	70.8	85.6	65.6	51.2	83.3	22.0
$50 to $150 million assets	64.1	9.4	68.8	87.5	60.9	48.4	73.4	15.6
0 to $50 million assets	76.9	7.7	61.5	84.6	53.8	30.8	84.6	15.4
AMEX	69.2	11.6	66.4	85.6	45.2	34.9	69.9	16.4
Over $150 million assets	65.0	10.0	75.0	90.0	40.0	35.0	85.0	15.0
$50 to $150 million assets	75.0	10.4	62.5	79.2	54.2	33.3	66.7	25.0
0 to $50 million assets	66.7	12.8	66.7	88.5	41.0	35.9	67.9	11.5
NASDAQ—Other	67.1	7.5	65.6	82.9	49.7	40.7	70.1	15.3
Over $150 million assets	66.5	8.4	67.1	85.6	53.9	38.9	75.4	17.4
$50 to $150 million assets	66.2	4.1	62.2	81.1	52.7	45.9	63.5	10.8
0 to $50 million assets	68.2	8.3	65.0	80.9	43.9	40.1	67.5	15.3

TABLE 22.—NOMINATING COMMITTEE FUNCTIONS

[Sample means]

Companies by size and trading market	Percent select or recommended nominees	Percent evaluate incumbent directors	Percent consider shareholder recommendations	Percent develop and/or disclose criteria for selecting nominees	Percent review organization or performance of the board	Percent other functions
All companies	96.9	11.6	78.1	22.6	13.0	27.1
Over $150 million assets	96.8	13.3	83.0	25.0	14.4	29.3
$50 to $150 million assets	97.7	15.2	73.9	21.7	19.6	21.7
0 to $50 million assets	96.6	3.4	65.5	15.5	3.4	24.1
NYSE	97.9	15.0	84.3	27.9	18.6	32.1
Over $150 million assets	97.4	15.5	84.5	29.3	19.0	34.5
$50 to $150 million assets	100.0	15.8	84.2	26.3	21.1	21.1
0 to $50 million assets	100.0	0.0	80.0	0.0	0.0	20.0
AMEX	100.0	5.9	67.6	17.6	8.8	26.5
Over $150 million assets	100.0	33.3	66.7	33.3	33.3	0.0
$50 to $150 million assets	100.0	7.1	71.4	14.3	14.3	14.3
0 to $50 million assets	100.0	0.0	64.7	17.6	0.0	41.2
NASDAQ—other	94.9	9.3	73.7	17.8	7.6	21.2
Over $150 million assets	95.7	8.7	81.2	17.4	5.8	21.7
$50 to $150 million assets	92.3	23.1	61.5	23.1	23.1	30.8
0 to $50 million assets	94.4	5.6	63.9	16.7	5.6	16.7

TABLE 23.—PERCENT OF COMPANIES DISCLOSING DIRECTOR RESIGNATIONS YEAR

[Sample means]

Companies by size and trading market	Percent	Companies by size and trading market	Percent
All companies	10.4	AMEX	11.9
Over $150 million assets	13.0	Over $150 million assets	9.5
$50 to $150 million assets	10.2	$50 to $150 million assets	13.5
0 to $50 million assets	7.4	0 to $50 million assets	11.6
NYSE	13.1	NASDAQ—other	8.3
Over $150 million assets	14.7	Over $150 million assets	11.4
$50 to $150 million assets	7.7	$50 to $150 million assets	10.1
0 to $50 million assets	15.4	0 to $50 million assets	5.2

[FR Doc. 82-6367 Filed 3-11-82; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 20

[Docket No. 82N-0034]

Disclosure of Information to Other Federal Government Departments and Agencies

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting its regulation governing the disclosure of FDA records to other Federal government departments and agencies to make clear that certain trade secret and confidential commerical information may not be, and is not being, disclosed. FDA is taking this action to avert any confusion which may exist between the agency's regulation and practice.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Irene Kelly, Regulatory Operations Section (HFC-22), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3470.

Section 20.85 (21 CFR 20.85) was promulgated as part of FDA's public information regulations, effective December 24, 1974. Subsequently, in 1978, the House Committee on Interstate and Foreign Commerce requested information of the Secretary, some of which consisted of trade secrets falling within the terms of section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 (j)).

The Secretary sought formal advice from the Attorney General of the United States with respect to the scope of the disclosure provision of 21 U.S.C. 331(j). On August 9, 1978, the Attorney General advised that 21 U.S.C. 331(j) by its express terms forbids disclosure of trade secret information within the section to anyone outside of the Department other than to a court when relevant in a judicial proceeding. A copy of this opinion has been placed in the docket for this regulation and may be seen at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Since that time, FDA has interpreted § 20.85 in accordance with the Attorney General's opinion with respect to information within the scope of 21 U.S.C. 331(j) as well as that within the comparable provisions of 21 U.S.C. 360j(c) and the Radiation Control for Health and Safety Act, 42 U.S.C. 263g(d) and 263i(e).

But FDA has not revised § 20.85 to conform to the Attorney General's opinion and FDA's practice. This oversight may have confused some persons. Accordingly, FDA is correcting § 20.85 to clarify the matter. Therefore, FDA determines that good cause exists to find that notice and public procedures are impracticable, unnecessary, and contrary to the public interest. For the same reasons, FDA finds good cause for not delaying the effective date of the changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 201 et seq., 52 Stat. 1040 et seq. (21 U.S.C. 321 et seq.)), the Public Health Service Act (sec. 1 et seq., 58 Stat. 682 et seq., as amended (42 U.S.C. 201 et seq.)) and the Freedom of Information Act (Pub. L. 90-23, 81 Stat. 54-56 as amended by 88 Stat. 1561-1565 (5 U.S.C. 552)) 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 by revising § 20.85 to read as follows:

PART 20—PUBLIC INFORMATION

§ 20.85 Disclosure to other Federal government departments and agencies.

Any Food and Drug Administration record otherwise exempt from public disclosure may be disclosed to other Federal government departments and agencies, except that trade secrets and confidential commercial or financial information prohibited from disclosure by 21 U.S.C. 331(j), 21 U.S.C. 360j(c), 42 U.S.C. 263g(d) and 42 U.S.C. 263i(e) may be released only as provided by those sections. Any disclosure under this section shall be pursuant to an agreement that the record shall not be further disclosed by the other department or agency except with the written permission of the Food and Drug Administration.

Effective date. March 12, 1982.

(Sec. 201 et seq., 52 Stat. 1040 et seq., as amended (21 U.S.C. 321 et seq.); sec. 1 et seq., 58 Stat. 682 et seq., as amended (42 U.S.C. 201 et seq.); 81 Stat. 54-56 as amended by 88 Stat. 1561-1565 (5 U.S.C. 552))

Dated: March 8, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-6750 Filed 3-11-82; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Parts 73 and 81

[Docket No. 81C-0023]

Caramel: Color Additive for General Use in Cosmetics; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of August 28, 1981 for a regulation that permanently lists caramel as a color additive for general use in cosmetics. In addition, the agency is making two editorial changes in Part 81 (21 CFR Part 81).

DATE: Effective date confirmed: August 28, 1981.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF-334), Food and Drug Administration, 200

C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: A final rule published in the **Federal Register** of July 28, 1981 (46 FR 38500) added caramel for general use in cosmetics under § 73.2085 (21 CFR 73.2085) to Subpart C—Cosmetics of Part 73 (21 CFR Part 73). This final rule also amended § 81.1(g) (21 CFR 81.1(g)), by removing caramel from the provisional list of color additives, and § 81.27 (21 CFR 81.27), by removing paragraph (b)(1), (2), and (3), and redesignating paragraph (d) as paragraph (b).

FDA has not received any objections or requests for a hearing in response to this final rule. Therefore, this document confirms the effective date of August 28, 1981 for the regulation permanently listing caramel as a color additive.

In addition, for editorial clarity, the agency is making two revisions in Part 81. Because caramel was the only color additive listed in § 81.1(g), FDA should have removed the entire paragraph (g) in the July 28, 1981 final rule rather than just "caramel." The agency is now making this revision. Furthermore, the final rule's redesignation of paragraph (d) as paragraph (b) of § 81.27 does not relate to the action on caramel and will not improve editorial clarity. Therefore, the agency is withdrawing that redesignation and reinstating the paragraph (d) designation, but the original paragraph (b) remains removed and is designated as reserved. Because these editorial revisions are merely technical and result in no substantive changes, the agency finds that notice and public procedure are not necessary (5 U.S.C. 553(b)(B)).

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d))) and the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 21 CFR 5.1; see 46 FR 26052; May 11, 1981)), FDA is giving notice that no objections or requests for a hearing were filed in response to the final rule of July 28, 1981. Accordingly, the agency announces that the final rule listing caramel for general use in cosmetics under § 73.2085 (21 CFR 73.2085) became effective on August 28, 1981. The agency also announces the following editorial changes in Part 81:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, paragraph (g) is removed.

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing*, the text of paragraph (b) is redesignated as paragraph (d) and paragraph (b) is designated as "reserved."

Effective date. March 12, 1982.

(Sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d)))

Dated: March 4, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-6382 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Citrate Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by International Multifoods providing for safe and effective use of 100- and 300-milligram (mg) diethylcarbamazine citrate tablets for prevention of heartworm disease and control of ascarid infections in dogs and treatment of ascarid infections in dogs and cats.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: International Multifoods, 1200 Multifoods Building, 8th and Marquette Sts., Minneapolis, MN 55402 filed a supplemental NADA (107–506) providing for use of 100- and 300-mg diethylcarbamazine citrate tablets for the prevention of heartworm disease in dogs caused by *Dirofilaria immitis*, as an aid in the treatment and control of ascarid infections in dogs caused by *Toxocara canis*, and as an aid in the treatment of ascarid infections in cats caused by *Toxacara canis* and *Toxascaris leonina*.

International Multifoods currently holds approval for use of 50-, 200-, and 400-mg tablets. (See **Federal Register** of August 14, 1981, 46 FR 41038). This supplement adds the 100 and 300 mg sizes. Approval of this supplement does not change the approved condition of use of the drug. 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 application. The supplement is approved and the regulations are amended to reflect the approval.

The Bureau of Veterinary Medicine has determined pursuant to proposed 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.

This 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 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.622a [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.622a *Diethylcarbamazine citrate tablets* in paragraph (a)(3) by deleting the phrase "50, 200, or 400" and inserting in its place "50, 100, 200, 300, or 400".

Effective date. This amendment is effective March 12, 1982.

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

Dated: March 3, 1982.

Myron C. Rosenberg,

Acting Associate Director for Scientific Evaluation, Bureau of Veterinary Medicine.

[FR Doc. 83-6383 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Estradiol

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Elanco Products Co. providing for the safe and effective use of an ear implant containing 24 or 45 milligrams (mg) of estradiol as a growth promotant in steers.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV–123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3442.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 South Alabama St., Indianapolis, IN 46206, filed an NADA (118–123) providing for use of an ear implant containing 24 or 45 mg of estradiol for increased rate of weight gain in suckling and pastured growing steers and for improved feed efficiency and increased rate of weight gain in confined steers. Elanco has submitted data based on well-controlled studies that demonstrate the animal safety and effectiveness of the drug for the prescribed conditions of use. The safety of residues of the drug in edible tissue has been demonstrated by available information evaluated by criteria the agency has developed for endogenous substances like estradiol, progesterone, and testosterone. A further discussion of this finding and the applicable criteria will appear in forthcoming **Federal Register** announcements regarding the safety of products containing endogenous hormones. For background information, see 44 FR 1462, 1463 (January 5, 1979) and 46 FR 24694 (May 1, 1981). The NADA is approved and the regulations are amended accordingly.

The Bureau of Veterinary Medicine 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 Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(iv)) 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.

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 (address above).

This 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 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs, (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83). Part 522 is amended by adding new § 522.840 to read as follows:

§ 522.840 Estradiol.

(a) *Specifications.* Each silicone rubber implant contains 24 or 45 milligrams of estradiol.

(b) *Sponsor.* See 000986 in § 510.600(c) of this chapter.

(c) *Conditions of use.* It is used for implantation in steers as follows:

(1) *Amount.* Insert one 24-milligram implant every 200 days; insert one 45-milligram implant every 400 days.

(2) *Indications for use.* For increased rate of weight gain in suckling and pastured growing steers; for improved feed efficiency and increased rate of weight gain in confined steers.

(3) *Limitations.* For subcutaneous ear implantation in steers only. Remove any existing implant as directed before re-implantation.

Effective date. This regulation is effective March 12, 1982.

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

Dated: March 8, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82–6749 Filed 3–11–82; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs not Subject to Certification; Levamisole Phosphate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Pitman-Moore, Inc., providing for use of levamisole phosphate injection for treating cattle for stomach, intestinal, and lung worm infections.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV–123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3442.

SUPPLEMENTARY INFORMATION: Pitman-Moore, Inc., Washington Crossing, NJ 08560, filed an NADA (126–742) providing for safe and effective subcutaneous use of a 13.65 percent levamisole phosphate injection for treatment of cattle for stomach worm, intestinal worm, and lung infections. The product is identical to one in Capri's approved NADA 102–437 which is codified in 21 CFR 522.1244. Capri has authorized the agency to use the data and information in their NADA to support approval of Pitman-Moore's NADA. Pitman-Moore's NADA 126–742 is approved and the regulations are amended to reflect the approval.

The agency 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.

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.

This 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.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 522.1244 is amended by revising paragraph (b) to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.1244 Levamisole phosphate injection.

* * * * *

(b) *Sponsor.* See No. 011716 in § 510.600 of this chapter for use of 13.65 percent injection, and see No. 043781 for use of 13.65 and 18.2 percent injection.

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Effective date. March 12, 1982.

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

Dated: March 5, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-6600 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Nitrofurazone Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Wendt Laboratories, Inc., providing for over-the-counter (OTC) use of nitrofurazone solution as a topical antibacterial on dogs, cats, and horses, and for veterinary prescription use for genital tract infections and impaired fertility of horses.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Wendt Laboratories, Inc., 100 Nancy Dr., Belle Plains, MN 56011, is sponsor of an NADA (119-974) providing for use of Fura-Solution containing 0.2 percent nitrofurazone as an OTC topical antibacterial on dogs, cats, and horses, and prescription treatment of equine genital tract infections and impaired fertility. This product is similar to another product codified in 21 CFR 524.1580d (see 46 FR 22359, April 17, 1981). The section provides that since the conditions of use are NAS/NRC reviewed and found effective, applications for these uses need not include effectiveness data as specified by 21 CFR 514.111. The product is intended for topical use; therefore, the requirement for bioequivalency is waived under 21 CFR 320.22(b)(2). The application is approved, and the regulations are amended accordingly.

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.

This 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.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended in § 524.1580d by revising paragraph (b), to read as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 524.1580d Nitrofurazone solution.

* * * * *

(b) *Sponsor.* See 000857 and 015579 in § 510.600(c) of this chapter for use as in paragraph (d) (1) and (2) of this section. See 051259 for use as in paragraph (d)(1) of this section.

* * * * *

Effective date. March 12, 1982.

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

Dated: March 5, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-6599 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulation for lincomycin to reflect approval of a supplemental new animal drug application (NADA) filed by the Upjohn Co. providing for administrative waiver of the ministerial requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act with regard to the manufacture of complete swine feeds from premixes containing lincomycin at concentrations up to and including 20 grams per pound.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed a supplemental NADA (97-505) providing for waiver of the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(m)) for the manufacture of complete swine feeds from premixes containing lincomycin at concentrations up to and including 20 grams per pound. The firm holds a section 512(m) waiver limited to use of the 20-gram-per-pound premix only.

Lincomycin as the sole drug premix meets the uniform criteria set forth in the 1971 Bureau of Veterinary Medicine memorandum for administrative waiver of the ministerial requirements of section 512(m) of the act. The pertinent provisions of the memorandum indicate that waiver is appropriate if:

1. The feeding of 1.5X to 2X level of the product in the finished feed does not have an impact on the tissue residue picture, i.e., an impact on an existing withdrawal period or tolerance.

2. The product is not a known carcinogen or is not classed with a family of known carcinogens.

3. Appropriate documentation covering animal safety is on file. This will not require additional data since this documentation is by definition a part of the NADA.

4. The margin of safety to the animal and the consumer is such that the product label does not have to contain a statement such as "Use as the sole source of * * *."

5. Data are on file to demonstrate that the product is efficacious over the approved range. This data should generally satisfy current standards for the demonstration of efficacy.

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Applications of this criterion require a review of the available Drug Experience Reports.

The 1971 memorandum explains that waiver of the ministerial requirements of section 512(m) of the act is permitted only for specific efficacy claims or at specific levels of the drugs, and that distinct products with corresponding labeling for those claims or levels should exist. This is necessary to cover those premixes that can be made into finished feeds with various concentrations of drugs.

The foregoing criteria established in the 1971 memorandum constitute an interim agency policy. In waiving the ministerial requirements of section 512(m) of the act, the agency has not waived the current good manufacturing practice regulations under Part 225 (21 CFR Part 225) for feed mills mixing such feeds.

In the **Federal Register** of January 9, 1981 (46 FR 2456), the agency published a proposal to revise the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. In that proposal (46 FR 2463), the agency announced that it would no longer grant exemptions from the requirement of an approved medicated feed application because the interim policy would be terminated by publication of a regulation establishing permanent policy. FDA believed at that time that a final rule on the proposed medicated feed regulations could be published within a short time. Because of the length of time that has expired since publication of the proposal, the agency concludes that it would be unfair to continue denying waivers to those drug sponsors whose products meet the criteria set forth in the 1971 memorandum on the basis that the program is to be restructured in the future. Accordingly, the agency is withdrawing its policy, announced in the January 9, 1981 **Federal Register**, terminating the granting of section 512(m) exemptions (based on the 1971 memorandum) and resumes the granting of exemptions on an interim basis.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(b)(22) (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.

Approval of this supplement is an administrative action that did not require the generation of new effectiveness or safety data in support of the waiver. Therefore, a freedom of information summary is not required for this action.

This 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.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.325 by revising paragraph (e)(3) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.325 Lincomycin.

* * * * *

(e) * * *

(3) Complete swine feeds containing lincomycin as the sole drug, which are processed from premixes containing no more than 20 grams of lincomycin per pound, and which conform to the requirements of paragraph (f)(2) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Effective date. This regulation is effective March 12, 1982.

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

Dated: March 5, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-6601 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Micro Blenders, Inc., for use of a tylosin and sulfamethazine premix in the manufacture of swine feeds.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Micro Blenders, Inc., P.O. Box 357, Highway 210 East at 291, Liberty, MO 64068, is sponsor of NADA 128-617 for Tylan 5 Sulfa, a premix containing 5 grams-per-pound each of tylosin (as tylosin phosphate) and sulfamethazine. The NADA provides for safe and effective use of the premix for subsequent manufacture of complete swine feed to be used for (1) maintaining weight gain and feed efficiency in the presence of atrophic rhinitis, (2) lowering the incidence and severity of *Bordetella bronchiseptica* rhinitis, (3) preventing swine dysentery (vibrionic), and (4) controlling swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and /or *Corynebacterium pyogenes*).

Approval of the application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA's 12-491 and 41-275. Elanco has authorized FDA to refer to these applications to support approval of the application. Because this approval does not change the approved use of the drug it poses no increased human risk from exposure to drug residues and does not affect the conditions of safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's policy regarding supplements to NADA's (42 FR 64367; December 23, 1977), approval of this NADA has been treated as a Category II supplement and does not require reevaluation of the safety and effectiveness data contained in NADA's 12-491 and 41-275.

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 agency 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.

This 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.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 by revising paragraph (b)(9), to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.630 Tylosin and sulfamethazine.

* * * * *

(b) * * *

(9) To 017790, 022422, 050782: 5 grams per pound each, paragraph (f)(2)(ii) of this section.

* * * * *

Effective date. March 12, 1982.

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

Dated: March 5, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-6602 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 973-82]

Creation of the Office of Information and Privacy

AGENCY: Justice Department.

ACTION: Final rule.

SUMMARY: This order creates the Office of Information and Privacy, within the Office of Legal Policy, to discharge in one consolidated Office the responsibilities of the Office of Privacy and Information Appeals and the Office of Information Law and Policy, which are concurrently abolished. This order also abolishes the Freedom of Information Committee.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel J. Metcalfe, Co-Director, Office of Information and Privacy, Department of Justice, Washington, D.C. 20530 (202/633-4082).

SUPPLEMENTARY INFORMATION: This order deals with agency organization and management. Therefore, it is not required to be, and has not been, published in proposed form for comment under 5 U.S.C. 553(b); it is not a rule within the meaning of, or subject to, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*; and it is not a rule within the meaning of, or subject to, Executive Order 12291.

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Accordingly, by virtue of the authority vested in me as Attorney General by 5 U.S.C. 301 and 28 U.S.C. 510, Part 0 of Title 28, Code of Federal Regulations, is hereby amended as follows:

1. Section 0.23a is revised to read as follows:

§ 0.23a Office of Information and Privacy.

(a) There is established, in the Office of Legal Policy, the Office of Information and Privacy, which, under the general supervision and direction of the Assistant Attorney General, Office of Legal Policy, shall:

(1) Assist in acting on information and privacy appeals under §§ 16.7 and 16.47, respectively, of this chapter, except that in the case of appeals from initial decisions in which the Assistant Attorney General, Office of Legal Policy, participated this assistance shall be provided by the Office of Legal Counsel.

(2) Provide staff support to the Department Review Committee, established by § 17.148 of this chapter.

(3) Advise executive agencies and organizational units of the Department on questions relating to interpretation and application of the Freedom of Information Act and advise the Department on questions relating to interpretation and application of the Privacy Act.

(4) Coordinate the development and implementation of and compliance with Freedom of Information Act policy within the executive agencies and all organizational units of the Department.

(5) Undertake, arrange, or support training and informational programs concerning both acts for the executive agencies and the Department.

(6) Undertake such other responsibilities as may be assigned by the Assistant Attorney General, Office of Legal Policy.

(b) All federal agencies which intend to deny Freedom of Information Act requests raising novel issues should consult with the Office of Information and Privacy to the extent practicable.

§ 0.23b [Removed]

2. Section 0.23b is removed.

§ 0.23c [Removed]

3. Section 0.23c is removed.

Dated: March 4, 1982.

William French Smith,

Attorney General.

[FR Doc. 82-6830 Filed 3-11-82; 8:45 am]

BILLING CODE 4410-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Health Professional Scholarship Program

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The "Veterans Administration Health Care Amendments of 1980" established the Veterans Administration Health Professional Scholarship Program. The purpose of the Scholarship Program is to assist in providing an adequate supply of trained physicians and nurses for the Veterans Administration and for the Nation and, if needed by the Veterans Administration, certain other health care professionals. Under this program, medical, osteopathic and nursing students could receive up to four years of financial assistance during their training. This assistance would include payment of tuition, other educational expenses and a monthly stipend, all of which would be exempt from Federal taxation. In return for this financial assistance, a scholarship participant would be obligated to serve as a full-time employee in the VA's Department of Medicine and Surgery for a period of time equal to the period of support or two years, whichever is greater. Medical or osteopathic students may request a deferment of obligated service to complete an internship or residency or other advanced clinical training. Such a deferment may, however, obligate the student to an additional period of service.

It is intended that these regulations will set forth the requirements for the award of scholarships under the VA Health Professional Scholarship Program to students receiving academic training in medicine, osteopathy, nursing and, if needed by the Veterans Administration, certain other health care professionals. However, for the 1982-83 school year, scholarships will be awarded only to students pursuing academic training leading to a baccalaureate degree in nursing or a master's degree in nursing in a clinical specialty needed by the Veterans Administration.

EFFECTIVE DATE: February 25, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothy E. Reese, Acting Director, VA Health Professional Scholarship Program (14N), Office of Academic Affairs, Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, Phone (202) 389-5071.

SUPPLEMENTARY INFORMATION: On December 31, 1981 proposed regulations for Part 17, Title 38, Code of Federal Regulations were published in the **Federal Register** on pages 63327 to 63331 to implement provisions of Pub. L. 96-330, enacted August 26, 1980.

Interested persons were given 30 days to submit comments, suggestions, or objections. The Veterans Administration received six letters, two of which expressed support for the award of scholarships to students enrolled in approved programs leading to a nursing degree.

Two writers suggested that the amount of the monthly stipend be stated as being the same as the National Health Service Corps Scholarship Program. The amount of the monthly stipend for participants in the VA Health Professional Scholarship Program is, by law, adjusted annually in accordance with any changes in the rates of pay under the General Schedule. Although the same adjustments are made in the National Health Service Corps Scholarship Program, we do not believe that it is necessary to state this comparability in the regulations.

One writer objected to the exclusion of students enrolled in diploma schools of nursing. The law defines the eligibility of nursing students as those enrolled, or accepted for enrollment, full-time in a course of training leading to a degree in nursing. The Veterans Administration does not have the authority to use the regulations to overturn a provision of the law. For clarification, a graduate of a diploma school who is enrolled or accepted for enrollment full-time in a course of training leading to a baccalaureate degree in nursing would be eligible to apply for a scholarship.

One writer asked whether or not consideration could be given to nursing students requesting a deferment of obligated service to complete further education. The statement in the law authorizing deferments is specific to those disciplines requiring "an internship or residency or other advanced clinical training." In the specified disciplines this additional training is usually required for employment. Graduates of nursing degree programs are not required to have such additional training for service obligation or other employment. Therefore, there is no basis for providing deferments to nursing students.

In addition to consideration of the comments received, one additional point has been added to the final regulations. Provisions have been made for the random selection of qualified applicants in cases in which there are a larger number of equally qualified applicants than there are awards to be made.

Executive Order 12291

The Administrator has determined that these regulations are non-major as that term is defined by Executive Order 1229. The regulations will apply to individuals seeking benefits of the program. The regulations will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumer, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment investment, productivity, innovation, or on the ability of United States-based enterprise to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility

The Administrator hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these regulations are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this rule will, almost exclusively, be directed to individuals who wish to apply for assistance from the VA Health Professional Scholarship Program.

It will, therefore, have no significant direct impact on small entities (i.e., small business, small private and non-profit organizations, and small governmental jurisdictions.)

Paperwork Reduction Act

Information collection requirements contained in these regulations (38 CFR 17.600-17.612) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, and have been assigned OMB control number 2900-0352.

(Catalog of Federal Domestic Assistance number 64.023)

These new regulations, 38 CFR 17.600-17.612, are hereby adopted.

Approved: February 25, 1982.

By direction of the Administrator.

Charles T. Hagel,

Deputy Administrator.

PART 17—MEDICAL

38 CFR Part 17 is amended by adding §§ 17.600 through 17.612 to read as follows:

* * * * *

VA Health Professional Scholarship Program

Sec.

Authority: 38 U.S.C. 4141-4146.

VA Health Professional Scholarship Program

§ 17.600 Purpose.

The purpose of §§ 17.600 through 612 is to set forth the requirements for the award of scholarships under the Veterans Administration Health Professional Scholarship Program (Pub. L. 96-330; 38 U.S.C. 4141-4146) to students receiving academic training in medicine, osteopathy or nursing to assure an adequate supply of such health professionals for the Veterans Administration and for the Nation.

§ 17.601 Definitions.

For the purpose of these regulations:

(a) "Acceptable level of academic standing" means the level at which a full-time student retains eligibility to continue in attendance in school under the school's standards and practices in the course of study for which the scholarship was awarded.

(b) "Act" means the Veterans Administration Health-Care Amendments of 1980, Pub. L. 96-330, (38 U.S.C. 4141-4146.)

(c) "Affiliation agreement" means a Memorandum of Affiliation between a Veterans Administration health care facility and a school of medicine or osteopathy.

(d) "Advanced clinical training" means those programs of graduate training in medicine including osteopathy which (1) lead to eligibility

for board certification or which provide other evidence of completion, and (2) have been approved by the appropriate body as determined by the Administrator.

(e) "Administrator" means the Administrator of Veterans Affairs.

(f) "Chief Medical Director" means the Chief Medical Director of the Department of Medicine and Surgery (DM&S), Veterans Administration.

(g) "Citizen of the United States" means any person born, or lawfully naturalized in the United States, subject to its jurisdiction and protection, and owing allegiance thereto.

(h) "Degree in nursing" means a course of study leading to a baccalaureate degree or a master's degree in a clinical specialty needed by the Veterans Administration.

(i) "Full-time student" means an individual pursuing a course of study leading to a degree in medicine, osteopathy or nursing who is enrolled for a sufficient number of credit hours in any academic term to complete the course of study within not more than the number of academic terms normally required by the school, college or university. If an individual is enrolled in a school and is pursuing a course of study which is designed to be completed in more than four years, the individual will be considered a full-time student for only the last four years of the course of study.

(j) "Other educational expenses" means a reasonable amount of funds determined by the Administrator to cover expenses such as books, supplies, required fees and required educational equipment.

(k) "Required educational equipment" means educational equipment which must be rented or purchased by all students pursuing a similar curriculum in the same school.

(l) "Required fees" means those fees which are charged by the school to all students pursuing a similar curriculum in the same school.

(m) "Scholarship Program" or "Scholarship" means the Veterans Administration Health Professional Scholarship Program authorized by Section 201 of the Act.

(n) "Participant" or "Scholarship Program Participant" means an individual whose application to the Scholarship Program has been approved and whose contract has been accepted by the Administrator and who has yet to complete the period of obligated service or otherwise satisfy the obligation or financial liabilities of the Scholarship Contract.

(o) "School" means a school of medicine, osteopathy or nursing which (1) provides training leading to a degree of doctor of medicine, doctor of osteopathy, a baccalaureate degree in nuring or a master's degree in nursing in a clinical specialty needed by the Veterans Administration, and (2) which is accredited by a body or bodies recognized for accreditation by the Administrator.

(p) "School year" means all or part of the 12-month period from July 1 through June 30 during which an applicant is enrolled in the school as a full-time student.

(q) "State" means one of the several States, Territories and possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

§ 17.602 Eligibility.

(a) To be eligible for a scholarship under this program an applicant must—

(1) Be accepted for enrollment or be enrolled as a full-time student in an accredited school located in a State;

(2) Be pursuing a course of study or program offered by a school leading to a degree in medicine, osteopathy or a degree in nursing;

(3) Be in a discipline or program annually designated by the Administrator for participation in the Scholarship Program;

(4) Be a citizen of the United States; and

(5) Submit an application to participate in the Scholarship Program together with a signed contract. (38 U.S.C. 4142(a)).

(b) Any applicant who, at the time of application, owes a service obligation to another Federal program to perform service after completion of the course of study is ineligible to receive a scholarship under the Veterans Administration Health Professional Scholarship Program. (38 U.S.C. 4142(a)(4)).

§ 17.603 Availability of scholarships.

Scholarships will be awarded only when necessary to assist the Veterans Administration in alleviating shortages or anticipated shortages of personnel in particular health professions. The existence of a shortage of personnel will be determined in accordance with specific criteria for each health profession, promulgated by the Chief Medical Director. If it becomes necessary for the Veterans Administration to award scholarships in any health profession other than medicine, osteopathy or nursing, the Administrator may publish a list of those professions in the Federal Register. (38 U.S.C. 4142(c)(2)).

§ 17.604 Application for the scholarship program.

Each individual desiring a scholarship under this program must submit an accurate and complete application in the form and at the time prescribed by the Administrator. Included with the application will be a signed written contract to accept payment of a scholarship and to serve "a period of obligated service" (as defined in § 17.607) if the application is approved and if the contract is accepted by the Administrator. (38 U.S.C. 4142(e)(1)(B)(iv))

§ 17.605 Selection of participants.

(a) *General.* In deciding which Scholarship Program applications will be approved by the Administrator, priority will be given to applicants who previously received scholarship awards and who meet the conditions of paragraph (d) of this section. Except for continuation awards (see paragraph (d)), applicants will be evaluated under the criteria specified in paragraph (b) of this section. A situation may occur in which there are a larger number of equally qualified applicants than there are awards to be made. In such cases, a random method may be used as the basis for selection. (38 U.S.C. 4142(c)(1))

(b) *Selection.* In evaluating and selecting participants, the Administrator will take into consideration those factors determined necessary to assure effective participation in the Scholarship Program. The factors may include, but not be limited to—

(1) Work experience, including prior medically related employment and Veterans Administration employment;

(2) Faculty and employer recommendations;

(3) Academic performance; and

(4) Career goals. (38 U.S.C. 4142(i))

(c) *Duration of scholarship award.* Subject to the availability of funds for the Scholarship Program, the Administrator will award a participant a scholarship under §§ 17.600–17.612 for a period of from 1 to 4 school years. (38 U.S.C. 4142(e)(1)(A); 4146)

(d) *Continuation awards.* Subject to the availability of funds for the Scholarship Program and selection, the Administrator will award a continuation scholarship if—

(1) The participant requests a continuation;

(2) The award will not extend the total period of Scholarship Program support beyond 4 years; and

(3) The participant remains eligible for continued participation in the Scholarship Program. (38 U.S.C. 4142(c)(1)(i))

§ 17.606 Award procedures.

(a) *Amount of scholarship.* (1) A scholarship award will consist of (i) tuition, (ii) other educational expenses, including required fees, books, laboratory equipment, and (iii) a monthly stipend for the duration of the scholarship award. All such payments to scholarship participants are exempt from Federal taxation. (38 U.S.C. 4145)

(2) The Administrator may make arrangements with the school in which the participant is enrolled for the direct payment of the amount of tuition and/or reasonable educational expenses on the participant's behalf. (38 U.S.C. 4142(f) (1) and (2); 4145)

(b) *Leave-of-absence, repeated course work.* The Administrator will suspend scholarship payments to or on behalf of a participant if the school (1) approves a leave-of-absence for the participant for health, personal, or other reasons, or (2) requires the participant to repeat course work for which the Administrator previously has made payments under the Scholarship Program. Only if the repeated course work does not delay the participant's graduation date, will scholarship payments continue; however, additional costs relating to the repeated course work will not be paid under this program. Any scholarship payments suspended under this section will be resumed by the Administrator upon notification by the school that the participant has returned from the leave-of-absence or has completed the repeated course work and is proceeding as a full-time student the course of study for which the scholarship was awarded. (38 U.S.C. 4142(i))

§ 17.607 Obligated service.

(a) *General.* Except as provided in paragraph (d) of this section, each participant is obligated to provide service as a Veterans Administration employee in full-time clinical practice in his or her clinical specialty or discipline in an assignment or location determined by the Administrator. (38 U.S.C. 4143(a))

(b) *Beginning of service.* The period of obligated service will begin when the participant is appointed under title 38 United States Code, as a full-time employee of the Department of Medicine and Surgery, Veterans Administration in the clinical field or discipline in which the individual was trained. Except for those participants who receive a deferral under § 17.608, the assignment will be made by the Administrator within 60 days of (1) the completion of the participant's course of study leading to a degree in medicine, osteopathy or nursing or (2) the date upon which the participant becomes licensed to practice medicine, osteopathy, or nursing. (38 U.S.C. 4143(b), (c))

(c) *Duration of service.* Except as provided in paragraph (d) of this section, the period for which the participant is obligated on a full-time basis in the clinical field or discipline in which the individual was trained to serve is equal to 1 year for each school year for which the participant receives a scholarship award under these regulations, or 2 years, whichever is greater. (38 U.S.C. 4142(e)(1)(B)(iv))

(d) *Service by detail.* The Administrator, in cooperation with and with the consent of the heads of other relevant Federal departments and agencies and with the consent of the participant involved, may permit—

(1) Any period of required obligated service to be performed in another Federal department or agency or in the Armed Forces; and

(2) Any period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel scholarship program to be performed in the Department of Medicine and Surgery, Veterans Administration. (38 U.S.C. 4144(e))

(e) *Creditability of advanced clinical training.* No period of advanced clinical training will be credited toward satisfying the period of obligated service incurred under the Scholarship Program. (38 U.S.C. 4143(b)(3)(A)(ii))

§ 17.608 Deferment of obligated service.

(a) *Request for deferment.* A participant receiving a degree from a school of medicine or osteopathy may request deferment of obligated service to complete an approved program of advanced clinical training. The Administrator will generally defer the beginning date of the obligated service to allow the participant to complete the the advanced clinical training program. The period of this deferment will be the time designated for the specialty training in which the physician is enrolled as defined by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association. (38 U.S.C. 4142(i); 4143(b)(3)(A)(i))

(d) *Deferment requirements.* Any participant whose period of obligated service is deferred shall be required to take all or part of the advanced clinical training in an accredited program in an educational institution having an Affiliation Agreement with a Veterans Administration health care facility. (38 U.S.C. 4143(b)(4)(A))

(c) *Additional service obligation.* A participant who has requested and received deferment for approved advanced clinical training may, at the time of approval of such deferment and at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

(1) At the rate of one-half of a calendar year for each year of approved clinical training (or a proportionate ratio thereof) if the training is in a medical specialty determined to be necessary to meet health care requirements of the Department of Medicine and Surgery, Veterans Administration; or

(2) At the rate of three-quarters of a calendar year for each year of approved graduate training (or a proportionate ratio thereof) if the training is in a medical specialty determined not to be necessary to meet the health care requirements of the Department of Medicine and Surgery. Specialties necessary to meet the health care requirements of the Department of Medicine and Surgery will be prescribed periodically by the Administrator when, and if, this provision for an additional period of obligated service is to be used. (38 U.S.C. 4143(b)(4)(B))

(b) *Altering deferment.* Before altering the length or type of approved advanced clinical training for which the period of obligated service was deferred under paragraph (a) or (b) of this section, the participant must request and obtain the Administrator's written approval of the alteration. (38 U.S.C. 4142(i))

(e) *Additional terms of deferment.* The Administrator may prescribe additional terms and conditions for deferment under paragraphs (a), (b), (c) and (d) of this section as necessary to carry out the purposes of the Scholarship Program. (38 U.S.C. 4142(i))

(f) *Beginning of service after deferment.* Any participant whose period of obligated service has been deferred under paragraph (a) or (b) of this section must begin the obligated service effective on the date of appointment under title 38 in full-time clinical practice in an assignment or location in a Veterans Administration health care facility as determined by the Administrator. The assignment will be made by the Administrator within 120 days prior to or no later than 30 days following the completion of the requested graduate training for which the deferment was granted. Travel and relocation regulations will apply. (38 U.S.C. 4143(b)(2))

§ 17.609 Pay during period of obligated service.

The initial appointment of physicians for obligated service will be made in a grade commensurate with qualifications

as determined in section 4107(b)(1) of title 38, United States Code. A physician serving a period of obligated service is not eligible for incentive special pay during the first three years of such obligated service. He or she may be paid primary special pay at the discretion of the Administrator upon the recommendation of the Chief Medical Director. (Pub. L. 96–330, Sec. 202; 38 U.S.C. 4118(h))

§ 17.610 Failure to comply with terms and conditions of participation.

(a) If a participant, other than one described in paragraph (b) of this section fails to accept payment or instructs the school not to accept payment of the scholarship provided by the Administrator, the participant must, in addition to any service or other obligation incurred under the contract, pay to the United States the amount of $1,500 liquidated damages. Payment of this amount must be made within 90 days of the date on which the participant fails to accept payment of the scholarship award or instructs the school not to accept payment. (38 U.S.C. 4144(a))

(b) When a participant fails to maintain an acceptable level of academic standing, is dismissed from the school for disciplinary reasons, voluntarily terminates the course of study or program for which the scholarship was awarded before completing the course of study or program, or fails to become licensed to practice medicine or osteopathy in a State or fails to become licensed as a registered nurse in a State within 1 year from the date such person becomes eligible to apply for State licensure, the participant must, instead of performing any service obligation, pay to the United States an amount equal to all scholarship funds awarded under the written contract executed in accordance with § 17.602. Payment of this amount must be made within 3 years from the date academic training terminates. (38 U.S.C. 4144(b))

(c) Participants who breach their contracts by failing to begin or complete their service obligation (for any reason) other than as provided for under paragraph (b) of this section are liable to repay the amount of all scholarship funds paid to them and to the school on their behalf, plus interest, as determined by the following formula:

$$A = 30\ \frac{t}{(t-s)}$$

in which:

'A' is the amount the United States is entitled to recover;

"0" is the sum of the amounts paid to or on behalf of the applicant and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

't' is the total number of months in the applicant's period of obligated service; and

's' is the number of months of the period of obligated service served by the participant.

The amount which the United States is entitled to recover shall be paid within 1 year of the date on which the applicant failed to begin or complete the period of obligated service, as determined by the Administrator. (38 U.S.C. 4144(c))

§ 17.611 Bankruptcy.

Any payment obligation incurred may not be discharged in bankruptcy under title 11 of the United States Code until 5 years after the date on which the payment obligation is due. (38 U.S.C. 4144(d)(3))

§ 17.612 Cancellation, waiver, or suspension of obligation.

(a) Any obligation of a participant for service or payment will be canceled upon the death of the participant. (38 U.S.C. 4144(d)(1))

(b)(1) A participant may seek a waiver or suspension of the service or payment obligation incurred under this program by written request to the Administrator setting forth the basis, circumstances, and causes which support the requested action. The Administrator may approve an initial request for a suspension for a period of up to 1 year. A renewal of this suspension may also be granted.

(2) The Administrator may waive or suspend any service or payment obligation incurred by a participant whenever compliance by the participant (i) is impossible, due to circumstances beyond the control of the participant or (ii) whenever the Administrator concludes that a waiver or suspension of compliance would be in the best interest of the Veterans Administration. (38 U.S.C. 4144(d)(2))

(c) Compliance by a participant with a service or payment obligation will be considered impossible due to circumstances beyond the control of the participant if the Administrator determines, on the basis of such information and documentation as may be required, that the participant suffers from a physical or mental disability resulting in permanent inability to perform the service or other activities which would be necessary to comply with the obligation. (38 U.S.C. 4144(d)(2))

(d) Waivers or suspensions of service or payment obligations, when not related to paragraph (c) of this section, and when considered in the best interest of the Veterans Administration, will be determined by the Administrator on an individual basis. (38 U.S.C. 4144(d)(2))

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-1934-7]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On June 26, 1979, Indiana submitted as a revision to its State Implementation Plan (SIP) a revised sulfur dioxide (SO_2) regulation, Air Pollution Control 13 (APC 13), and SO_2 control strategies for certain designated nonattainment counties. EPA proposed rulemaking to conditionally approve, in part, these control strategies on March 27, 1980 (45 FR 20432). Indiana recodified its regulations and on October 6, 1980 submitted essentially identical regulations. EPA is taking final action today to conditionally approve, in part, the recodified regulations and the control strategies contained in the submissions. EPA is taking no action on an alternate method of determining compliance within the regulation which permits averaging of SO_2 emissions over 30 days. It is disapproving the plans for Wayne, Dearborn, Porter, and Warrick Counties because those plans do not assure attainment and maintenance of the national ambient air quality standards (NAAQS). On January 27, 1981, EPA disapproved the plan for Jefferson County (46 FR 8473). EPA is proposing rulemaking elsewhere in today's **Federal Register** on the dates by which Indiana has committed itself to meet the conditions on EPA's approval.

DATES: This action is effective as of March 12, 1982.

ADDRESSES: Copies of Indiana's submissions, EPA's technical support document, and the public comments on this revision to the SIP 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

Indiana State Board of Health, Air Pollution Control Division, 1330 West Michigan Street, Indianapolis, Indiana 46206

Copies of the regulations and commitments are available for review at: The Office of Federal Register, 1100 L Street, S.W., Room 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert Miller, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886–6031.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and on October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Clean Air Act (CAA), as amended in 1977, the EPA designated certain areas in each Region V state as not attaining the National Ambient Air Quality standards (NAAQS) for SO_2. Areas in Lake, LaPorte, Marion, Vigo, and Wayne Counties, Indiana were designated as not attaining the primary standard. For lack of sufficient information, Dearborn, Gibson, Jefferson, Porter, and Warrick Counties were designated as unclassifiable.

Part D of the CAA, as added by the 1977 amendments, requires each state to revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary NAAQS as expeditiously as practicable, but for SO_2 not later than December 31, 1982. The requirements for an approvable SIP are described in the April 4, 1979 **Federal Register** (44 FR 20372) and supplements dated July 2, August 28, September 17, and November 23, 1979 (44 FR 38583, 50371, 53761, 67182).

EPA's final determinations take one of three forms: approval, conditional approval, or disapproval. A discussion of conditional approval and its practical effect appears in the July 2, 1979 **Federal Register** (44 FR 38583) and in the November 23, 1979 **Federal Register** (44 FR 67182). Conditional approval requires the state to submit additional materials by specified deadlines negotiated between the state and the EPA. Schedules submitted by Indiana are proposed for public comment elsewhere in today's **Federal Register**. Although public comment is solicited on the deadlines, and the deadlines may be changed in light of the comments, the State remains bound by its commitment to meet the proposed deadlines, unless they are changed. EPA will follow the procedures described below when determining if requirements of conditional approval have been met:

1. When a state submits the required additional documentation, EPA will publish a notice in the **Federal Register** announcing receipt and availability of the materials for public comment. The notice will also announce that the conditional approval is continuing pending EPA's final action on the submission.

2. EPA will evaluate the state's submissions and public comment on the submission to determine if noted deficiencies have been fully corrected. After review is complete, a **Federal Register** notice will either fully approve the plan if all conditions have been met, or withdraw the conditional approval and disapprove the plan. If the plan is disapproved, then the Section 110(a)(2)(I) restrictions on construction will be in effect.

3. If the state fails to submit the required materials according to the negotiated schedule, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved, and Section 110(a)(2)(I) restrictions on growth are in effect.

In response to Part D of the CAA, on June 26, 1979, the State of Indiana submitted, among other items, revised SO_2 control strategies and a revised regulation, APC 13, to EPA. It submitted additional data and comments on the SO_2 plan on June 25, 1980; August 27, 1980; October 15, 1981; and July 16, 1981. The June 26, 1979 submission included control strategies for Lake, LaPorte, Marion, and Vigo Counties that were adopted by the Indiana Air Pollution Control Board (IAPCB). The revised APC 13 was promulgated by the State on June 19, 1979. The Vigo County strategy was withdrawn by the State on October 4, 1979, and an amended strategy for Vigo County was submitted on February 11, 1980. Therefore, rulemaking on Vigo County is being handled in a separate rulemaking. On August 27, 1980, Indiana recodified its regulations and submitted them on October 6, 1980. APC 13 (1979) was recodified as 325 IAC Article 7, Sulfur Dioxide Regulations; 325 IAC 12–5–1 and 2(a), Fossil Fuel Fired Steam Generators; 325 IAC 12–9–1 and 4, Petroleum Refineries; 325 IAC 12–18–1 and 2; Sulfuric Acid Plants; 325 IAC 1.1–61(a)(2) and 2, Stack Height Provisions; and 325 IAC 7–1–8 Appendix A for Lake, LaPorte, and Marion Counties, Source Specific Emission Limitations. Because these provisions are essentially identical to those in 1979 APC 13, EPA is rulemaking today on the recodified regulations.

In response to petitions under section 126 of the Act, EPA is reviewing the SO_2 strategies in Jefferson and Floyd Counties. Because of these petitions, EPA is rulemaking on these two Counties separately from the rulemaking for the remainder of the State. On January 27, 1981 (46 FR 8473), EPA disapproved the strategy for Jefferson County. EPA is taking action today on the SO_2 plan for all counties in Indiana except Floyd, Jefferson, and Vigo.

The measures promulgated today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations or if it chooses, challenging the new regulations. In some instances, the present emission control regulations contained in the federally-approved SIP are different from the regulations currently being enforced by the State, because the State is presently enforcing the regulations which EPA is conditionally approving today as opposed to the SIP. In these situations, the existing federally-approved SIP will remain applicable and enforceable by the EPA until there is compliance with the newly promulgated and federally-approved regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability of the new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exception to this rule is in cases where there is a conflict between the requirements of the new regulations and the requirements of the existing regulations, such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new regulations. In these situations, the State may exempt a source from compliance with the pre-existing regulations. Any exemption granted will be reviewed and acted on by EPA.

Background

EPA first fully approved the Indiana SO_2 SIP on May 14, 1973 (38 FR 12689).

This SIP required most sources in Indiana to reduce their SO_2 emissions to between 10.8 and 2.16 grams/megacalorie (g/Mcal) (6.0 and 1.2 pounds/Million British Thermal Units (MMBTU) or 2580 and 516 nanograms/joule (ng/J), depending upon the size of the source. On August 24, 1976, EPA approved, in part, a revised SO_2 strategy for most areas of Indiana, but did not approve the revised strategies for Jefferson, LaPorte, Porter, Vigo, and Warrick Counties. Therefore, the 1973 regulations are the SIP requirements for sources in these 5 counties and the 1976 regulations are the SIP requirements for sources throughout the remainder of the State. The 1976 regulations removed SO_2 emissions limitations from most existing sources in the State but left emission limitations similar to those in the 1973 regulations in effect for new sources throughout the State and for existing sources in Lake, Marion, and Dearborn Counties.

Indiana's June 26, 1979 submission contains a revised APC 13, which includes an Appendix A that lists source specific emission limitations, and area specific technical support. On October 6, 1980, the recodified SO_2 strategy was submitted. The recodified strategy consists of the following parts:

Recodified	Subject	1979
325 IAC 7-1-1	Applicability	APC-13 Sec. 2.
325 IAC 7-1-2	Emissions limitations	APC-13 Sec. 3.
325 IAC 7-1-3	Test methods to determine compliance	APC-13 Sec. 5.
325 IAC 7-1-4	Ambient monitoring	APC-13 Sec. 6.
325 IAC 7-1-5	Control strategies	APC-13 Sec. 8.
325 IAC 7-1-6	Compliance timetables	APC-13 Sec. 7.
325 IAC 7-1-7	SIP Revisions	APC-13 Sec. 9.
325 IAC 7-1-8 App. A	Source specific emissions limitations (Lake, LaPorte, and Marion Co.).	APC-13 App. A.
325 IAC 1.1-6-1(A)(2) and (2)	Stack height provisions	APC 13 Sec. 4.
325 IAC 1.1-7-2	Severability	APC 13 Sec. 11.
325 IAC 1.1 7-4	Force and effect	APC 13 Sec. 10.
325 IAC 12-5-1 and 2(a)	Fossil fuel fired steam generators	APC 13 Sec. 3(f).
325 IAC 12-9-1 and 4	Petroleum refineries	APC 13 Sec. 3(h).
325 IAC 12-18-1 and 2	Sulfuric acid plants	APC 13 Sec. 3(g).

Regulation 325 IAC 7 restricts SO_2 emissions from sources with a potential to emit 22.3 metric tons (Megagrams or Mg) of sulfur dioxide per year (25 tons per year) or 4.5 kilograms of SO_2 per hour (10 lbs. of SO_2 per hour). The emission limitations contained in 325 IAC 7 apply statewide. Most existing fuel burning sources are limited to 10.88 g/Mcal (6.0 pounds/MMBTU or 2580 ng/J). Process sources, unless included in 325 IAC 7-1-8, Appendix A, are not controlled.

Where computer modeling studies showed that specific sources, either process or fuel burning, in nonattainment areas required more stringent controls, site-specific emission limitations were developed by either local industrial task forces or by the Indina Air Pollution Control Division (IAPCD). In either case, they were then adopted by the IAPCB. These emission limitations are contained in Appendix A to Regulation APC 13. Any change in an emission limitation or condition specified in Regulation APC 13 or in Appendix A to Regulation APC 13 must be submitted to EPA as a revision to the federally-approved SIP.

On March 27, 1980, EPA issued a notice of proposed rulemaking (NPR) to conditionally approve, in part, the Indiana SO_2 plan (45 FR 20432). This **Federal Register** notice also proposed various actions on other portions of the Indiana SIP. EPA will rulemake on these other portions in separate final rulemaking notices.

At Indiana's request, on May 7, 1980, EPA extended the public comment period on the NPR until June 27, 1980 (45 FR 30089). At the request of two Indiana sources and with the concurrence of the State, EPA again extended the comment period until August 1, 1980 (45 FR 48168, July 18, 1980).

In the NPR, EPA proposed to:

(a) Approve Sections 3(b) and 8 of Regulation APC 13 if the State submitted certification from the Indiana Attorney General that emission limitations contained in permits will have the force and effect of regulations in Indiana.

(b) Disapprove APC 13, Section 5, Test Methods to Determine Compliance, as it applies to 30 day averaging and approve Section 5 of APC 13 as it applies to stack tests.

(c) Approve Section 7, Compliance Timetables, if the State restored existing compliance schedules for sources that have the same or relaxed emissions limits under the new APC 13.

(d) Conditionally approve the control strategy demonstrations for Marion, Lake, and LaPorte Counties, provided the State committed itself to correct certain minor deficiencies according to a schedule agreed to by EPA.

(e) Disapprove APC 13 as it applies to Dearborn, Jefferson, Porter, Warrick, and Wayne Counties, unless the State submitted adequate attainment demonstrations during the public comment period.

On June 25, 1980, the State submitted comments on the notice of proposed rulemaking including:

(a) An administrative advisory letter from the Attorney General's Office on the force and effect of permit conditions.

(b) A commitment to withdraw the 30 day averaging compliance method from Section 5 (325 IAC 7-1-3) if EPA agrees to a revision of this section that would allow "* * * sources on a case-by-case basis to utilize fuel averaging periods if it can be demonstrated that these averaging periods will still allow for attainment and maintenance of the NAAQS when considered as part of the applicable SO_2 control strategy. Such fuel averaging periods will have to be approved by the Board and will be submitted to EPA as SIP revisions."

(c) A statement reiterating the State's support for the compliance timetables contained in Section 7 (325 IAC 7-1-6).

(d) Timetables for correcting the deficiencies in the control strategies for Lake, LaPorte, and Marion Counties.

(e) A commitment and schedule for the reanalysis of Wayne County, but no additional technical support to demonstrate that APC-13 is adequate to assure the NAAQS in Dearborn, Jefferson, Porter, and Warrick Counties.

The State clarified its comments for the submission of information on Lake, LaPorte, and Marion Counties in an August 27, 1980 letter. A timetable for their submission was given in a July 16, 1981 letter. A discussion of the State's submittals, public comments, and EPA's final action is available in an August 7, 1981 technical support document. A summary of these items is presented below.

(a) Force and Effect of Operating Permit Emission Limitations. In the March 27, 1980 Notice of Proposed Rulemaking (45 FR 20434), EPA reviewed Indiana's scheme for establishing SO_2 and particulate emission limitations through State issued operating permits (APC 19). EPA proposed to approve the scheme if the Attorney General of Indiana would certify that limitations established in the permits have the force and effect of a regulation. Sections 3(b) and 8 of APC 13 (325 IAC 7-1-2(b) and 5) were part of the scheme, and approval of those sections depended on approval of the scheme.

Indiana provided EPA with an administrative advisory letter from the Attorney General's Office. Although this letter disclaimed any status as an

official Attorney General Opinion, the author said that violation of an operating permit condition could be used as "the basis for revoking the permit or proceeding under IC 13–1–1–9, 13–7–5–1(1), 13–7–12–2, 13–7–13–1, or 13–7–13–3" of the Indiana Statutes. The writer concluded that violators of permits were subject to the same legal consequences as violators of the statutes or regulations of the APCB and thus permits had the "force and effect of a rule or regulation under Indiana law."

Appendix A limitations (which are an enforceable part of 325 IAC 7) are superseded as a matter of State law when limitations are incorporated into an operating permit for a given source, and they remain superseded for as long as the permit exists. The State may revoke a permit upon violation of the emission limitations contained therein, and may bring an enforcement action for operating without a valid permit or for violating the underlying State emission limitation. Therfore, the State appears to have an effective enforcement mechanism. Accordingly, EPA will approve the State scheme for establishing emission limitations.

Indiana is required by 325 IAC 7 to submit operating permits to EPA for approval. If a given permit reflects only the emission limitations and conditions already approved in the SIP, EPA will take no further action with respect to the permit and the Federally enforceable emission limitation remains the one approved as a part of the SIP.

Because 325 IAC 7–1–2(b) authorizes the Board to establish emission limitations in an operating permit for a given source that may vary from the Appendix A limitation, submission of such permits will be treated by EPA as SIP revisions and will be approved or disapproved in accordance with Section 110 of the Clean Air Act. These submissions must comply with EPA notice and public hearing requirements and be supported by adequate technical information to assure that the revision will not jeopardize attainment and maintenance of the NAAQS. If the emission limitations are less stringent than the approved SIP limitations, a prevention of significant deterioration analysis with respect to the increment consumed may be required.

If EPA approves the operating permit as a SIP revision, the emission limitations and conditions therein become the new SIP requirements. If these emission limitations and conditions become unenforceable by EPA, then the applicable emission limitations and conditions for the affected source will be the ones originally approved as a part of the SIP.

The State submission did not deal with the issue of maintenance of the ambient standards once they have been attained. Although some allowance for future growth was included in the analyses discussed below, this may not be sufficient to account for all increases in SO_2 emissions in the future. To ensure maintenance of the standards, Indiana will rely on its permit program for both existing and new or modified sources. First, as part of each new source permit review, a complete ambient air quality impact analysis is required. Second, New Source Performance Standards authority has been delegated to Indiana. Third, EPA has partially delegated Prevention of Significant Deterioration authority to Indiana. Thus, new source review requirements will be used to maintain the ambient standards.

(b) Test Methods To Determine Compliance. The Indiana Air Pollution Control Board committed itself to act on 30 day averaging upon EPA final action on the issue. On February 14, 1980 (45 FR 9994), EPA initiated a review of its policies and procedures for regulating coal fired power plant. As a part of this review, EPA is investigating methods that use longer averaging times and at the same time ensure the protection of the NAAQS. Therefore, EPA is not rulemaking today on the 30 day averaging provision of 325 IAC 7–1–3.

Section 3 includes three methods for determining compliance: a stack test performed in accordance with 40 CFR Appendix A Method 6, a 30 day average of the fuel sulfur content, or other methods approved by the IAPCB. EPA is approving the stack test portion of Section 5 but is taking no action on the 30-day averaging provision. All alternate compliance methods approved by the IAPCB must be submitted to EPA for approval as revisions to the SIP.

(c) Compliance Timetables. EPA proposed to approve 325 IAC 7–1–6, Compliance Timetables, if the State modified it to include the timetables included in the present SIP for those sources whose emission limitations are either not changing or being relaxed. The State declined to change this section, however, because it felt that it would be unfair to require immediate compliance for those sources out of compliance with the existing SIP, but in compliance with State law. EPA's policy, as stated earlier in this notice, is that compliance with the existing SIP must be maintained until compliance with the revised SIP is achieved. Therefore, because of the State's continued support of Section 6, EPA has no alternative but to disapprove the extended compliance date for those sources with relaxed or equivalent emission limitations. For these sources, the existing federally approved compliance dates remain in effect.

(d) Part D SO_2 Plans for LaPorte, Lake, and Marion Counties. The proposed control strategy for each county must be adequate to ensure attainment and maintenance of the annual primary, the 24-hour primary, and the 3-hour secondary ambient standards. A review of the control strategies, attainment analyses, and State commitments follows.

LaPorte County

The three major SO_2 sources in LaPorte County are the Beatty Memorial Hospital (Westville), the Indiana State Prison (Michigan City), and the NIPSCO Michigan City Station. The LaPorte County control strategy requires only the Indiana State Prison to meet a more stringent emission limitation than the statewide limit. The prison limitation is 8.01 g/Mcal (4.44 pounds/MMBTU or 1910 ng/J) with its existing 21m stacks or, if it raises its 3 stacks to 30m, it is allowed 9.22 g/Mcal (5.12 pounds/MMBTU or 2203 ng/J). All other sources in the County are subject to the general limit of 10.8 g/Mcal.

On January 12, 1979 (44 FR 2608), EPA proposed stack height regulations to implement Section 123 of the Clean Air Act. These regulations generally allowed sources automatic credit for stack heights up to a good engineering practice height, as determined by an EPA formula. EPA proposed changes to this policy on October 7, 1981 (45 FR 49814). The stack height increase at the Indiana State Prison meets the criteria in the proposed regulations.

To develop its proposed control strategy for LaPorte County, the Air Pollution Control Division of the Indiana State Board of Health performed a modeling analysis. EPA has defined certain computer models as being "reference models" for development of SIPs. The State employed the RAM-rural model in its analysis. RAM-rural was the appropriate reference model for multi-source rural areas at the time the State did the modeling. Since then, however, the reference rural multisource model has become MPTER. Thus, although the State's analysis is acceptable, any future modeling of this county must employ MPTER.

The NWS station at which the meterorological data was collected was not clearly identified in the State's technical support. This minor deficiency was cited in the NPR. Subsequent discussion with the State revealed that the data were from Midway (surface data) and Peoria (upper air data).

Because these NWS stations are appropriate for LaPorte County modeling, this deficiency has been adequately resolved.

The State used a constant background level based on LaPorte County monitoring data to account for all man-made and natural sources which are not in the State's inventory. The State did not provide sufficient data, however, to support its background level, as EPA noted in the NPR. The State subsequently committed itself to submit the justification for the background concentrations for all appropriate averaging periods to EPA. If this documentation is not sufficient, then the State committed itself to investigate and make necessary revisions, including changes to affected regulations, and submit these to EPA by November 1982.

The EPA accepts the State's commitment for resolving this minor deficiency. The November 1982 date is proposed for approval elsewhere in today's **Federal Register.**

The State's modeling analysis focused on the 24-hour ambient standard. Because the State claimed that this was the constraining standard, it did not submit a 3-hour or an annual modeling analysis. Although the 24-hour standard has been shown to be constraining for some rural counties, this has not been demonstrated for LaPorte County. This deficiency was noted in the NPR. The State of Indiana committed itself to investigate the 3-hour and annual standard further and make necessary changes, including changes to affected regulations and submit this information and any changes to EPA by November 1982. EPA accepts this commitment to resolve this deficiency. EPA proposes to approve the State's schedule elsewhere in today's **Federal Register.**

EPA is today conditionally approving the LaPorte County SO_2 strategy.

Lake County

The Lake County control strategy was based on reducing emissions from those sources that have the greatest impact on air quality and that can be controlled with the least cost and operating effect on a company. In general, reductions are required for Jones and Laughlin Steel, U.S. Steel, Inland Steel, Amoco, Energy Cooperative, and Commonwealth Edison sources within the County. Two aspects of this strategy should be noted.

First, several U.S. Steel sources are restricted to operation below design capacity. This restriction, identified in the regulations, was used in the modeling with the use of emission parameters for the reduced load conditions.

Second, the control strategy includes a stack height increase at the Northern Indiana Public Service Co. Mitchell Station from 71.9m to 104m. The Mitchell Station is restricted to the existing federally recognized emission limit of 2.16 g/Mcal (1.2 pounds/MMBTU or 516 ng/J).

RAM-urban, the appropriate multi-source reference model for urban areas, was applied in the analysis. In one section of its technical support document, the State characterized dispersion with the NRC Delta-T stability classification scheme. Although this use of a technique which has not been approved by EPA for the development of SIPs was cited in the NPR, this portion of the submission was not used by the State for the development of the actual attainment demonstration but was only used to determine the applicability of RAM-urban to Lake County. In addition, the State removed this section from its technical support document. Because the State has withdrawn this portion of the submittal and because it was not used in the actual attainment demonstration, EPA has determined that this issue should not be part of the conditional approval.

In the NPR, the emissions inventory was cited as being incomplete since the inventory did not appear to include the American Brick Company in Munster. During the public comment, Indiana pointed out that American Brick was included in the area source inventory. As discussed in the technical support document, recent site-specific monitored violations indicate that treatment of this source as an area source is inappropriate. Because its SO_2 emissions are released from a roof monitor running the length of the main shed, American Brick would more properly be treated as a line or volume source

The State also committed itself to submit to EPA corrected emissions inventories for Lake County. If the submittal is not adequate, the State committed itself to investigate and make necessary corrections, including revisions to affected regulations, by November 1982.

EPA accepts this commitment and conditionally approves the emissions inventory for Lake County. Because Indiana removed emission controls from process sources other than those specifically included in Apendix A, the State must utilize emission factors which estimate emissions without controls for these uncontrolled sources in all modeling studies. EPA is proposing to approve the November 1982 date elsewhere in today's **Federal Register.**

Midway-Argonne surface/Peoria upper air meterorological data were used in the modeling. Argonne wind data were substituted for those hours of reported calm winds in the Midway data set. EPA determined that this substitution was appropriate.

Background levels were derived from 1976 and 1977 monitoring data collected in the Lake County area. Levels were developed for various ranges of wind direction. The State provided insufficient support for these values, as noted in the NPR. The State has committed itself to submit justification for the background concentrations for all appropriate averaging periods. If this documentation is not sufficient, the State committed itself to investigate and make any necessary revisions, including changes to affected regulations, and submit them to EPA by November 1982. This commitment is acceptable, and EPA conditionally approves this portion of the submittal. EPA is proposing to approve the November 1982 date elsewhere in today's **Federal Register.**

Initially, the theoretical receptor points, where the computer modeling predicts ambient concentrations, were laid out in a 1 km square grid network. Receptors situated on industry-owned property were either discarded or shifted to either public or nonindustrial, off-property locations. In general, the network consisted of 71 receptors in a 4 km wide band parallel to the shoreline stretching from the Illinois border to the Porter County line. EPA has cited several deficiencies with the receptor grid (i.e., inadequate resolution and insufficient support for the dismissal of on-property receptors). Although these issues were not raised in the NPR, they must be resolved in the State's conditional approval submittal.

The State's modeling analysis focused on the 24-hour standard. Although Indiana claimed that this was the constraining standard, no annual analysis and an inadequate 3-hour analysis were provided. Although this issue was cited in general in the NPR, EPA's particular concern with the 3-hour modeling is the unjustified use of a plume rise enhancement factor. Application of a plume rise enhancement factor is not acceptable without adequate on-site supporting data.

The State has committed itself to submit documentation substantiating its belief that the 24-hour standard is the limiting standard. If protection of the three-hour and annual standards cannot be demonstrated, the State committed itself to investigate further and make necessary changes, including changes to

affected regulations, and submit them to EPA by November 1982. EPA accepts this commitment and conditionally approves this portion of the plan. EPA is proposing to approve the November 1982 date elsewhere in today's Federal Register.

The stack height increase in Lake County meets EPA's most recent approvability criteria, which were discussed earlier. Therefore, EPA is approving this portion of the plan.

Based on the State commitments, EPA conditionally approves the Lake County SO_2 plan.

Marion County

The Marion County control strategy, called Scenario V, was submitted by the State and applies only to the industrial portions of southwest Marion County. Scenario V is comprised of the following source specific elements.

(1) Detroit Diesel Allison Plant #8, 2001 S. Tibbs Avenue: Stack height increase (from 16.76 to 38.0m) and use of 1.4% oil (2.52 g/Mcal or 1.4 pounds/MMBTU);

(2) Detroit Diesel Allison Plant #5, 2355 S. Tibbs Avenue: Use of 1.6% sulfur coal (4.41 g/Mcal or 2.45 pounds/MMBTU);

(3) Indianapolis Power & Light (IPALCO) Stout Plant, 3700 S. Harding Street: Stack height increases (from 2@ 76.0m to 2@ 176.0m) and use of 9.54 g/Mcal (5.3 pounds/MMBTU or 2280 ng/J) coal and 0.63 g/Mcal (0.35 pounds/MMBTU or 150 ng/J) oil;

(4) Bridgeport Brass, 1800 S. Holt Road: Use of 4.97g/Mcal (2.76 pounds/MMBTU or 1200 ng/J) coal;

(5) Reilly Tar & Chemical, 1800 S. Tibbs Avenue: Use of 1.69–2.25 g/Mcal (0.94–1.25 pounds/MMBTU or 404–538 ng/J) oil;

(6) National Starch, 1515 Drover: Stack height increases (from 4 short stacks serving Boilers 1, 2, 3, and 5 to one 52.1m stack for Boilers 1, 2, and 3 and one 52.1m stack for Boiler 5), use of 7.18 g/Mcal (3.99 pounds/MMBTU or 1716 ng/J) coal, and specification of standby boiler capacity.

To support the Marion County control strategy, the State submitted RAM-urban modeling. The modeling contained numerous technical deficiencies that were cited in the NPR. The deficiencies include:

(1) The background levels used were not technically supported.

(2) The emissions inventory was incomplete.

(3) The meteorological data base was neither identified nor justified.

(4) No justification was provided for the claim that the 24-hour standard is constraining. (Based on this claim, no annual nor 3-hour analyses were submitted).

(5) The receptor network was neither identified nor justified.

(6) The high and second high 24-hour concentrations were not identified.

During the public comment period, there were three developments related to these deficiencies.

First, several commentors pointed out that EPA had received a copy of the modeling output on microfiche. EPA's review of the microfiche clarified some of the documentation issues (i.e., concentration and meteorological data).

Second, commentors stated that EPA had received the receptor network data in a December 28, 1979 supplemental submittal. EPA has reviewed these data and has determined that improvement in the spatial resolution of the receptor network is necessary to assure that the network is adequate to determine SO_2 hotspots.

Third, in its comments, the State noted that a City of Indianapolis-industry task force has been working directly with EPA to develop an acceptable SIP for the entire County. This recent task force effort is designed to produce an alternative control strategy that the State indicated it will adopt after a public hearing and submit to supersede the submission discussed here. In this reanalysis, the task force is attempting to correct any deficiencies noted in the NPR. EPA will propose rulemaking on this alternative control strategy upon its receipt from the State.

Fourth, the State committed itself to the following:

1. To submit the justification for the background concentrations for all appropriate averaging periods to EPA. If this documentation is not sufficient, the State will investigate and make any necessary revisions, including changes to affected regulations, and submit them to the EPA by November 1982.

2. To submit to EPA corrected emissions inventories for Marion County. If the submittal is not adequate, the State committed itself to investigate and make necessary corrections, including revisions to affected regulations, and submit them to EPA by November 1982.

3. To submit to EPA the corrected receptor network coverage and resolution, including a listing of the high and second high concentrations on critical days. If additional documentation is necessary, it committed itself to investigate and make further revisions, including changes to affected regulations, and submit them to EPA by November 1982.

4. To submit all documentation substantiating the State's belief that (1) the 24 hour standard is the limiting standard and (2) if the 24 hour standard has been attained and will be maintained, then the three hour standard and annual standards are also being met. If protection of the three hour standard and annual standards cannot be justified by protection of the 24 hour standard, then the State committed itself to investigate further and make necessary changes, including changes to affected regulations, and submit them to EPA by November 1982.

EPA finds these four commitments acceptable. Additionally, the stack height increases meet EPA's most recent guidelines which were discussed earlier. Therefore, EPA is conditionally approving the Marion County SO_2 plan based on the four commitments. The November 1982 schedule date for submittal of the conditionally approved items is being proposed for approval elsewhere in today's Federal Register.

(e) SO_2 Plan for Other Indiana Counties.

Floyd and Jefferson Counties

Recent analyses have shown that 325 IAC 7, as it applies to the major SO_2 sources in Floyd and Jefferson Counties, may not be adequate to protect the NAAQS. Sources in these counties, however, are being currently reviewed under Section 126 petitions. These petitions allege that facilities in Floyd and Jefferson Counties may cause violations of the NAAQS in the adjoining Commonwealth of Kentucky.

Floyd and Jefferson Counties are not included in today's rulemaking action on 325 IAC 7. The strategy for Jefferson County was disapproved on January 27, 1981, (46 FR 8473).

Wayne County

No Part D revision was received for Wayne County. The State originally claimed that the County should be redesignated as attaining the SO_2 NAAQS. Therefore, the State believed that no Part D SIP was necessary. No technical support, however, was provided for either the recommended redesignation or the contention that the emission limitations in 325 IAC 7 will assure attainment and maintenance of the NAAQS in the vicinity of the municipally owned electric generating station in Richmond. Furthermore, recent monitored violations reinforce the need for more stringent SO_2 regulations in Wayne County. During the public comment period, the State agreed to revise its designation of Wayne County to nonattainment for SO_2. It also committed itself to develop a control strategy when its redesignation

is final. However, without a control strategy and attainment demonstration for Wayne County, EPA must disapprove the SO_2 SIP as it applies to Wayne County.

Dearborn, Porter, and Warrick Counties

Under 325 IAC 7 all sources with the potential to emit 22.3 Mg (25 tons) or more of SO_2 per year in Dearborn, Porter, and Warrick Counties are subject to the general emission limit of 10.8 g/Mcal (2580 ng/J). This represents a relaxation from the existing federally approved emission limits for these counties. Inadequate technical support was provided to demonstrate that this relaxation would protect the NAAQS.

In its public comments, the State argued that since these counties are designated as unclassifiable, no control strategy is necessary. It admitted that the 10.8 g/Mcal limit represents a relaxation, but argued that this is irrelevant since the federally recognized SIP is outdated. The State agreed to develop a control strategy only if the designations are changed to nonattainment. To this end, the State committed itself to assess that attainment status of these counties according to a fixed schedule. The State has recently modeled these counties with computer dispersion models and has submitted ambient monitoring data. These analyses and data are currently under EPA review. Additionally, on June 17, 1981, Indiana submitted as a revision to its SIP new emission limitations for the Tanner's Creek power plant in Dearborn County. EPA will rulemake on this submission in the future. However, based on the evidence currently available to the Agency, EPA must disapprove 325 IAC 7 as it applies to Dearborn, Porter, and Warrick Counties because the State has not demonstrated that a 10.8 g/Mcal emission limitation is sufficient to protect the NAAQS in these three counties.

Public Comments

In response to the March 27, 1980 notice of proposed rulemaking, EPA received many public comments. EPA has carefully considered those comments in reaching today's rulemaking action. EPA discussed earlier in this notice its response to some of these issues and will not repeat its response here. Summaries of the remaining issues raised by the comments and EPA's responses to these issues are as follows:

General Procedural Comments

Issue: One commentor submitted extensive national comments and requested the comments be considered part of the record for each State plan.

Response: Some of the issues raised in the comments are not relevant to provisions in Indiana's submittal. However, EPA notified the public of its response to all of the issues in the February 21, 1980 **Federal Register** (45 FR 11472).

Issue: Several industrial commenters questioned EPA's authority under the Clean Air Act to review a State's submission in terms of "enforceability," "stringency," "relaxation or revocation," or "continuity."

Response: EPA responded to similar comments from some of the same commenters in the February 21, 1980 **Federal Register** (45 FR 11472, 11475–76). EPA incorporates its February 21, 1980 response by reference in today's rulemaking.

Issue: Numerous industrial commenters argued that EPA's policy of conditional approval is not sanctioned by the Clean Air Act. Some of the commenters claim that EPA must promulgate a federal SIP and comply with procedural requirements for such promulgation if the Administrator finds a State plan inadequate. The commenter further contends that conditional approval circumvents the procedural safeguards of Section 307 of the Act and coerces State modification of the plan through threat of disapproval.

Response: In the Administrator's view, conditional approval provides procedural safeguards equivalent to those available when the Administrator promulgates a plan. A discussion of conditional approval and its practical effect appears in supplements to the General Preamble published on July 2, 1979 (44 FR 38583) and November 23, 1979 (44 FR 67182). In the case of Indiana, for example, the Administrator has proposed to conditionally approve certain provisions. The commenter has had an opportunity to submit extensive written comments and receive EPA's response. Today's final conditional approval may be challenged in the appropriate United States Court of Appeals within 60 days. The rulemaking and judicial review procedures thus provide opportunities for comment and review similar to those provided for promulgations under Section 307(d).

Conditional approval is also consistent with the Administrator's obligation under Section 110(c)(1)(C). That subsection requires the Administrator to promulgate regulations for a state if "the state fails, within 60 days after notification by the Administrator or such later period as he may prescribe, to revise an implementation plan as required pursuant to a provision of its plan referred to in subsection (a)(2)(II)." When the Administrator proposes conditional approval, he is essentially notifying the state that further revisions are required to make the plan or regulations fully approvable. If the state fails to satisfy the Administrator's conditions, the Administrator will disapprove the plan or regulation and may then promulgate regulations to correct the deficiency. The state is simply offered the option of correcting the inadequacies itself.

Issue: Several industrial commenters allege that their ability to comment was impaired by the absence of a complete record during the comment period. The commenters argue that a complete record is required at the time of the proposed rulemaking by either or both the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and section 307(d) of the Clean Air Act. The commenters complain that EPA's files relating to the proposed rulemaking did not contain all the materials submitted to it by one of the commenters, documentation to support EPA's positions in the proposed rulemaking, and the entire State hearing record. Consequently, the commenters requested that EPA accept supplementary comments on materials not available during the comment period. Finally, the commenters state that EPA must hold its own public hearings on the proposal if the entire record of the State proceedings was not incorporated into the Federal record.

Response: EPA disagrees with the commenter's assertion that either the Administrative Procedure Act or section 307(d) of the Clean Air Act requires EPA to compile a complete record at the time EPA proposes rulemaking. The procedural requirements of section 307(d) apply only to those actions listed in section 307(d)(1). State-initiated SIP revisions are not included in the list. Therefore, state-initiated SIP revisions are subject to the procedural requirements of the Administrative Procedure Act, which does not require the compilation and availability of a complete record at the time of proposed rulemaking.

Citing *Appalachian Power Company v. Environmental Protection Agency*, 477 F.2d 495 (1973), the commenters state that if EPA does not consider the State record in its entirety, the Agency must conduct full public hearings itself. EPA believes that applicable case law is contained in *Buckeye Power, Inc. v. Environmental Protection Agency*, 481 F.2d 162 (1973), in which the Court determined, among other things, that the

Agency need not supplement the record with transcripts of public hearings held in states in connection with adoption of state plans. EPA conducted this rulemaking in accordance with the holding in that case and with the requirements of the Administrative Procedure Act and the Clean Air Act. Further, in accordance with the regulatory provisions of 40 CFR 51.4 (c) and (d), the State has prepared and retains for inspection by the Administrator upon his request a record of each hearing. The State also submitted with the revision a certification that the required hearings were held after appropriate notice. Therefore, EPA believes that it has satisfied the applicable statutory and regulatory rulemaking requirements.

Finally, EPA declines the commenters' request that it accept supplementary comment on materials not available during the comment period. During the comment period, all State submittals and technical support were available for inspection. Public comments were added to the file on this revision as they were submitted. State hearing records were available from the State Agency. EPA believes that the Notice of Proposed Rulemaking summarized the bases for its positions. Therefore, EPA believes that the commenters had a full and fair opportunity to comment on this SIP revision.

Issue: One industrial commenter expressed its concern that by approving, disapproving, and conditionally approving different portions of a regulation, EPA was rewriting the State's submittal. The commentor believes that EPA has authority only to approve or disapprove the entire SIP for a given area.

Response: Section 110(a)(2) of the Clean Air Act expressly provides that for each SIP submittal. the Administrator must "approve or disapprove such plan or each portion thereof." The section further provides that the Administrator must "approve such plan, or any portion thereof" if he determines that it was adopted after reasonable notice and hearing and that it satisfied specified criteria. Consequently, EPA believes it is authorized by the Clean Air Act to approve, disapprove, and conditionally approve different portions of a SIP for a given area.

Long Range Transport of SO_2 and Sulfates

Issue: New York claims that EPA failed to comply with Sections 110(a)(2)(E) and 126 of the Clean Air Act. The commentor argued that EPA erred by not considering the long-range impacts of SO_2 on sulfate formation, total suspended particulate levels, and acid deposition. New York's comments specifically address the revised limits at IPALCO's Stout Plant (Stout) and NIPSCO's Michigan City Station (Michigan City). The commentor does not contend that the Stout or Michigan City plants, specifically, will interfere with attainment or maintenance of SO_2 standards in New York, or any other state, or that EPA erred in its determination that the plants would have an insignificant impact on SO_2 concentrations in other states. Rather, the commentor argued that EPA was required to calculate the impacts of the SO_2 revisions on sulfate and particulate matter concentrations in other states. Furthermore, the commentor claimed that modeling tools are available and should have been used by EPA to address the long-range transport problem.

Response: EPA's review and approval of the Indiana SO_2 SIP revision is consistent with Sections 110(a)(2)(E) and 126 for several reasons. First, 325 IAC 7 involves only SO_2 emission limitations. Accordingly, the revisions were only modeled for their impact on SO_2 concentrations. Indiana's revisions to its particulate SIP do not relax the particulate matter emission limitations for Stout and Michigan City. Indiana, therefore, was not required to model the effect of its revisions on particulate matter levels.

Second, EPA reference models are only valid out to 50 kilometers (km) from a source. No reference techniques have yet been established for accurately evaluating impacts beyond 50 km. The "state-of-the-art" of long-range transport models is not sufficiently advanced to be used for regulatory purposes. Consequently, contrary to the commentor's claim, there are no EPA-approved regulatory tools currently available to assess long-range impacts.

Third, with respect to interstate impact within the range of EPA's reference models, because there are no SO_2 nonattainment areas within 50 km of either Stout or Michigan City, EPA believes that these sources do not cause or contribute to a violation in any interstate area within 50 km of these sources. Additionally, because these revised emission limits do not differ greatly from the emissions the plants are presently emitting, EPA believes that these facilities will not cause or contribute to violations in these areas in the future. All interaction with other sources within LaPorte and Marion Counties will be analyzed by Indiana in addressing the deficiencies identified by this notice.

EPA has also considered whether revision of the emission limits for the named sources interferes with measures "required to be included in the applicable implementation plan for any other state under Part C to prevent significant deterioration of air quality * * *." There is only one State, Michigan, within 50 km of the named sources, and there are no counties in Michigan within 50 km of the named sources for which the PSD baseline has been triggered. Therefore, EPA has concluded that no such interference will result for those counties which are within the range of EPA's reference models.

Fourth, with respect to the claim that EPA should have modeled the SO_2 emissions for their effect on the particulate matter levels in other states, EPA's currently adopted models are simply not capable of such an analysis. EPA models estimate ground-level SO_2 concentrations caused by a plant's SO_2 emissions. Similary, EPA models estimate ground-level particulate matter concentrations caused by a plant's particulate matter emissions. Models capable of estimating the impact of SO_2 emissions on ground-level particulate matter concentrations have been developed by researchers, and EPA is presently evaluating their predictive accuracy as part of an overall revision to its Modeling Guideline. Application of these models at this time, however, is premature.

Fifth, for the purposes of Section 110(a)(2)(E), it is important to note that the commentor has not shown that the SO_2 emissions from the two named Indiana plants actually contribute materially or at all to particulate pollution in other states. The commentor cites nothing that supports a finding that Stout or Michigan City is responsible for any pollutant concentrations in another state, let alone concentrations that prevent a state from attaining or maintaining particulate matter standards.

New York's comments focus primarily on the aggregate impact of numerous Midwest sources. At New York's request a Section 126 hearing was held on the aggregate impact of SO_2 emissions from Midwest sources. (On June 18 and 19, 1981, in Washington, D.C.) EPA will, if necessary, reevaluate the adequacy of the Indiana plan when the findings on New York's Section 126 petition become available.

Finally, the sulfate question raised by the commentor is a complex one. To date, EPA has not established a national ambient air quality standard for sulfates. However, the sulfate issue is

being evaluated as part of EPA's current review, under Section 109(d)(1), 42 U.S.C. 7409(d)(1), of the criteria and national standards for sulfur oxides and particulate matter (see "Second External Review Draft Air Quality Criteria for Particulate Matter and Sulfur Oxides," and notice announcing comment period on draft, 46 FR 15569 (March 6, 1981)). At present, in the absence of a national standard for sulfates, EPA is not required to consider the the impact of the Indiana SO_2 plan on sulfate levels.

Issue: The Province of Ontario, Canada, claimed that emissions from IPALCO's Stout and NIPSCO's Michigan City plants and other sources in the Great Lakes region adversely affect air quality in southern Ontario in contravention of Section 115 of the Clean Air Act, The principles of international law, and the Memorandum of Intent Between the Government of Canada and the Government of the United States of America Concerning Transboundary Air Pollution (August 5, 1980). Ontario argued that the long-range transport of the sulfate derivatives of SO_2 causes acid deposition and decreased visibility in that province.

Response: Ontario's claim that Section 115 prohibits international air pollution is not appropriately raised in the context of this SIP revision. Section 110(a)(2)(E) addresses only interstate pollution; not international pollution. EPA is not required, not would it be appropriate, to consider claims concerning international air pollution as part of this proceeding. Under Section 115 the Administrator may notify a State that a SIP revision is necessary to prevent transboundary air pollution if reports or studies submitted by an international agency lead her to believe that public health or welfare in a foreign county is endangered.[1] 42 U.S.C. 7415. Absent formal notification, however, Section 115 does not require EPA to consider transboundary air pollution in approving a SIP revision.

Ontario also argues that principles of international law prohibit EPA, as an agency of the federal government, from permitting individuals within the U.S. to pollute Canadian territory or property. However, Ontario bases its claim of injury from transboundary air pollution upon the cumulative impacts of total SO_2 emissions from the midwestern and northeastern U.S., and not solely upon emissions from the Indiana plants that are subject of this rulemaking. Ontario has had an opportunity to submit its views on the cumulative interstate effects of SO_2 and sulfates at a hearing held by EPA on June 18 and 19. See 46 FR 24602 (May 6, 1981). Furthermore, transboundary SO_2 emissions are subject of ongoing negotiations between Canada and the U.S. In view of the limited scope of this proceeding and the other fora available in which Ontario may raise issues of aggregate SO_2 emissions and international law, EPA does not believe that it is required to consider these issues here.

Finally, Ontario claims that the Memorandum of Intent (MOI) between the Government of Canada and the United States of America places affirmative obligations upon EPA. In that document Canada and the U.S. stated their intent to "promote vigorous enforcement of existing laws and regulations * * * in a way that is responsive to the problems of transboundary air pollution," pending the conclusion of a formal agreement on air pollution between the two countries. The U.S. has honored the intent of the MOI by controlling its SO_2 emissions to the extent allowed by the provisions of domestic law. In this rulemaking EPA has concluded that the current emission limits are adequate to protect and maintain the NAAQS. Therefore it has met its obligations under the MOI to enforce domestic law.

Comments on Measurement Methods and Enforcement Procedures

Issue: Several comments were received relating to sulfur variability. Specific issues included 30-day averaging, the Expected Exceedance (ExEx) Method for determining emissions limitations, and the effectiveness of stack tests to determine compliance.

Response: EPA recognizes the problem of sulfur variability. Consequently, on February 14, 1980, EPA published a **Federal Register** notice notifying the public that EPA had begun a review of its policies and procedures for regulating large coal-fired boilers. Among the issues under review are: (a) Compliance test methods, (b) sulfur variability, (c) modeling guidelines, and (d) averaging periods for emission limitations. This review will address 30-day averaging, appropriate methods for evaluating 30-day averages, and protection of the NAAQS. Based on its review, EPA will make any necessary modifications in its policies. Until this review is complete, EPA will not rulemake on 30-day averaging in Indiana.

Issue: Commentors stated that until methods are available to address sulfur variability, EPA should have an interim SO_2 enforcement policy similar to the one that EPA approved in Ohio. These commentors believe that the daily cap should be 1.9 times the applicable emission limit.

Response: EPA has discussed with the State the possibility of adopting such a policy. However, any such enforcement policy would not modify the applicable SO_2 SIP emission limitations, but would only be a statement of enforcement priorities. EPA is taking no action today on 30-day averaging.

Issue: A commentor suggested that power plant units that operate only under peak load conditions should not be required to maintain emission controls based on full, continuous load operation.

Response: Units reserved for emergency and stand-by operation were not considered in the development of overall county-wide control strategies. However, sources which operate during peak load periods must be included in all strategies, because peak loads for any one source may occur when other sources are also experiencing peaks.

Compliance Date Comments

Issue: Commentors argued that EPA's proposed disapproval of 325 IAC 7–1–6 (compliance timetables) is not valid, stating that the Clean Air Act (Section 110 and Part D) requires attainment by the statutory date and reasonable further progress in the meantime. Thus, the December 31, 1981 (with possible extensions to December 31, 1982) compliance date in 325 IAC 7 should be acceptable. In addition, the commentors alleged that there should not be a requirement for immediate compliance from sources which are emitting at emission limitations representing a relaxation (i.e., operating out of compliance) of the federally approved SIP because the emission limitations in the federal SIP are outdated and have never been enforced against these sources.

Response: 325 IAC 7 revises some existing emission limitations. As discussed earlier, EPA policy is that the existing emission limits for any source remain in effect to prevent a source from operating uncontrolled, or under less stringent controls, while it is moving toward compliance with the new regulations (44 FR 20373, April 4, 1979). Sources for which the 325 IAC 7 represents a relaxation from the previous federally approved SIP, therefore, cannot be given additional time to achieve compliance with 325 IAC 7. The act requires "reasonable further progress" (RFP) in the interim period prior to attaining the NAAQS. Reasonable further progress does not mean that time is provided for a source

[1] The Secretary of State may also request the Administrator to give such notification to a State.

to do less. Nor does allowing additional time comply with the "* * * implementation of all reasonably available control measures as expeditiously as practicable." (Section 172(b)(2) of the Act). New compliance schedules can only be approved for sources that are subject to more stringent regulations under 325 IAC 7.

Lake County Comments

Issue: Several commentors supported approval of the Lake County SO_2 control strategy. One commentor also noted that the minor deficiencies cited in the NPR have been resolved by the Lake County Industrial Task Force.

Response: During the public comment period, EPA received no formal submissions from the State that resolved the deficiencies cited in the NPR. EPA can consider only official State submissions in its rulemaking. In view of the commitments made by the State to resolve these deficiencies, however, EPA feels that conditional approval of the Lake County Plan is justified.

Issue: A commentor claimed that short-term background concentrations were derived and submitted to EPA in late 1979, and that no estimate of an annual background was necessary because there have been no monitored violations of the annual standard in Lake County over the past few years. Thus, EPA's comment regarding background values is alleged to be inappropriate.

Response: The Agency informed the State and the Lake County Industrial Task Force of the problems with the background levels in a letter dated January 9, 1980 from David Kee, Director, Air and Hazardous Materials Division, Region V, EPA to James Dickerson, Chairman, Lake County Industrial Task Force. As discussed in that letter, additional technical justification (e.g., map of monitor locations, list of concentrations, and computations used to derive the background) is required to support the short-term backgrounds. In addition, a valid attainment demonstration for the annual standard must be provided. Consequently, further support is still required to resolve the background concentration issue. Finally, even if there have been no monitored violations of the annual standard in Lake County, EPA still requires an analysis of the annual standard to assure that no violations of the annual standard take place, perhaps at a location which is not presently being monitored.

Issue: Commentors maintained that a valid attainment demonstration for the 3-hour standard was submitted to EPA in 1979 and that no annual attainment demonstration is needed since there have been no measured annual violations. Thus, EPA's deficiency comment concerning the need for a 3-hour and an annual attainment demonstration is alleged to be in error.

Response: The Agency has previously informed the State and the Lake County Industrial Task Force of problems with the 3-hour and annual attainment demonstration in the January 9, 1980 letter from Kee to Dickerson. As noted in that letter, the 3-hour and annual analyses which we have received do not adequately justify attainment and maintenance of the 3-hour and annual standards. The annual analysis is deficient since it relied solely on monitoring data that is not temporarily and spatially adequate, by itself, for an attainment demonstration. Consequently, valid 3-hour and annual attainment demonstrations must still be provided.

Issue: A commentor submitted various technical papers supporting, in general, the use of a plume rise enhancement factor due to the merging of several individual plumes.

Response: The Agency informed the State and the Lake County Industrial Task Force of the problems with the application of a plume rise enhancement factor in the January 9, 1980 letter from Kee to Dickerson. As noted in that letter, use of such a factor has not been demonstrated to be appropriate because: (a) No site-specific or representative supporting data have been provided, (b) the validity of this factor needs to be examined on a source-by-source basis, and (c) even if the first two points can be shown, then the enhancement factor must be applied uniformly.

Issue: The Lake County Task Force claimed that it has submitted adequate justification for the modeled receptor network.

Response: The Agency informed the State and the Lake County Industrial Task Force of problems with the receptor network in the January 9, 1980 letter from Kee to Dickerson. As noted in that letter, the receptor resolution is inadequate and the dismissal of certain on-land receptors has not been supported. Thus, the modeled receptor network still contains several deficiencies that must be resolved.

Marion County Comments

Issue: Commentors stated that an SO_2 background concentration was not developed for the 3-hour and annual averaging periods in the Marion County SO_2 analysis because the 24-hour averaging period proved to be the limiting factor. The commentors claimed that this was supported by inspection of the 1-hour concentrations. The commentors also asserted that a 24-hour background was applied in the 24-hour analysis. They claimed that this analysis demonstrated attainment and maintenance of the NAAQS.

Response: The documentation submitted by the commentors purporting to demonstrate that the 24-hour standard is constraining is inadequate. Conversion of the second highest 1-hour concentration to a 3-hour average value results in a concentration greater than the 3-hour secondary standard. Thus, it has not been shown the 24-hour standard is constraining. Without this demonstration, 3-hour and annual attainment demonstrations with appropriate background levels are required. Additionally, justification for the 24-hour background concentration is necessary to support the 24-hour attainment demonstration.

Issue: The commentors claimed that a complete emissions inventory consisting of 83 point and 54 area sources was employed. The inventory included: (a) The SO_2 control strategy originally proposed by the State in an October, 1978 study for all sources (except those located in the southwest quadrant of Marion County and (b) the control strategy proposed by an Industrial Task Force for sources located in the Southwest quadrant of Marion County.

Response: EPA believes that the reference SO_2 emissions inventory is deficient. Current SO_2 emissions inventory data collected by the City of Indianapolis Division of Air Pollution Control indicates that 92 point sources and 64 area sources need to be included in a detailed modeling analysis for Marion County. The State must certify that the proposed SO_2 control strategy for Marion County includes all of the sources and their current emissions parameters in the modeling analysis in order to properly assess attainment and maintenance of SO_2 NAAQS.

Issue: In response to the NPR, the commentors pointed out that the SO_2 modeling analysis for Marion County used 1974 Indianapolis surface and Dayton, Ohio upper air observations provided by the National Weather Service (NWS).

Response: EPA believes that the meterological data base cited by the commentors is an appropriate data base for the Marion County modeling analysis. However, all future modeling analyses for Marion County must employ five years of recent representative NWS data, or, for source-

specific modeling, at least one year of source-specific data.

Issue: In response to the NPR, the commentors said that documentation showing the specifics of the receptor network used in the Marion County SO_2 analysis are included in a supplemental report submitted to EPA on December 28, 1979. This report established that the receptor network employed in modeling analysis of the preposed control strategy for Marion County includes the original input receptors used in the State's October 1978 modeling analysis for Marion County and an additional 56 receptors chosen around critical "hot spots."

Response: No demonstration has been provided to show that the additional 56 receptors are sufficient to analyze the air quality impacts due to the proposed revised control strategy (e.g., use of GEP stack heights, boiler derating, fuel adjustments, etc.) where it differs from the control strategy originally addressed in the State's October 1978 analysis. The change in control strategy can be expected to shift the location of the "hot spot" areas. Documentation has not been provided to show that "hot spots" due to the proposed control strategy can be adequately assessed with this revised receptor network.

Issue: One commentor advised EPA that caution should be exercised when associating a source either directly or by implication with "potential" or "actual" violations of the NAAQS through multi-source modeling data. The commentor further emphasized that assessing multi-source interaction under varying meteorology often makes it difficult to identify one source as a primary factor without considering other source impacts on other receptors on other days.

Response: EPA agrees that it is often difficult to determine source culpability. Consequently, EPA recommends that source applicability tables be obtained in multi-source situations to assist the State in developing and supporting a control strategy. EPA, however, only determines if a strategy, as submitted, attains and maintains the NAAQS. It does not review the criteria by which the State chooses its strategy.

Comments on Warrick, Dearborn, and Porter Counties

Issue: The commentors claim that dispersion modeling studies prove that a 10.8 g/Mcal (6.0 pound/MMBTU or 2580 ng/J) emission limit is sufficient to attain the annual and 24-hour NAAQS in Warrick County. The commentors claimed that quality assured on-site monitoring data based on a recent one-year record showed no violations of the primary or secondary NAAQS. Therefore, they argue that EPA should approve the 10.8 g/Mcal emission limitation proposed for Warrick County.

Response: The proposed 10.8 g/Mcal emission limitation represents a relaxation of the currently enforceable SIP emission limitation of 2.16 g/Mcal (1.2 pound/MMBTU or 516 ng/J) (38 FR 12698, May 14, 1973). The most recent SO_2 SIP revision submission by the State of Indiana in early 1979 indicates that the 10.8 g/Mcal emission limitation is not sufficient to attain and maintain the NAAQS in Warrick County. In addition, the monitoring network has not been shown to provide adequate spatial coverage to identify and measure SO_2 "hot spots." Thus, a site-specific modeling study employing EPA reference modeling techniques as described in the Guidelines on Air Quality Models must be performed to support the 10.8 g/Mcal emission limitation.

Wayne County Comments

Issue: Commentors claimed that the SO_2 nonattainment designation for Wayne County, Indiana, should be changed to attainment.

Response: The commentors' claim that Wayne County be designated attainment for SO_2 is not sufficiently justified. The nonattainment designation is supported by monitored violations of the short-term SO_2 NAAQS in the years 1976, 1977 and 1980. Furthermore, a downwash modeling analysis performed by the State using emissions data for the municipally owned electric generating station indicated air quality impacts that violate the NAAQS. Therefore, EPA maintains its determination that Wayne County is nonattainment for SO_2, that a control strategy must be developed for Wayne County, and that appropriate Wayne County emission limitations must be included in 325 IAC–7 in order to meet the requirements of section 110 of the Clean Air Act.

Conclusion

EPA is conditionally approving Indiana's revised 325 IAC 7 with the following exceptions: (1) Disapproving the compliance dates in Section 6 for those sources only where emission limitations have either not changed or are numerically higher; (2) disapproving the strategies for Dearborn, Porter, Warrick, and Wayne Counties because the State did not demonstrate that a 10.8 g/Mcal emission limitation is sufficient to attain and maintain the NAAQS; and (3) taking no action on the 30-day averaging compliance concept in Section 3. EPA is approving the SO_2 emission limitations for new Fossil Fuel Fired Steam Generators, Petroleum Refineries and Sulfuric Acid Plants, the stack height provisions for SO_2 sources, and the severability and force and effect regulations as they apply to the SO_2 regulations.

EPA's conditional approval requires the State to determine or submit, with revisions to the regulations as needed, the following by November 1982. The November 1982 date is being proposed for approval elsewhere in today's **Federal Register.**

LaPorte County

(1) Background levels for all appropriate averaging periods (i.e., 3-hour, 24-hour and annual) must be justified and must be applied in the analysis.

(2) The 24-hour standard must be demonstrated to be the constraining standard. In lieu of such a demonstration, 3-hour and annual attainment analyses must be provided.

Lake County

(1) The emissions inventory is incomplete. All process sources must be included within the emissions inventory. In particular, proper treatment of American Brick is necessary.

(2) Background levels for all appropriate averaging periods must be justified and must be applied in the analysis.

(3) The 24-hour standard must be demonstrated to be the constraining standard. In lieu of such a demonstration, 3-hour and annual attainment analyses must be provided.

(4) The analyses must contain adequate receptor resolution.

Marion County

(1) Background levels for all appropriate averaging periods must be justified and must be applied in the analysis.

(2) The emission inventory is incomplete. A comprehensive inventory, including all significant process and fuel burning SO_2 sources, must be applied in the control starategy evaluation.

(3) The 24-hour standard must be demonstrated to be the constraining standard. In lieu of such a demonstration, 3-hour and annual attainment analyses must be provided.

(4) The analyses must contain adequate receptor resolution.

EPA's conditional approval of the SO_2 control strategies for Lake, LaPorte, and Marion Counties removes the SO_2 growth restrictions of Section 110(a)(2)(I) from these counties. Section 110(a)(2)(I) requires that an approved Part D SIP must be in place for a

particular area and pollutant before the restrictions are lifted. One portion of an approved Part D SIP is that an approved new source review (NSR) program, which meets the requirements of Section 173, must be in place. EPA has recently approved Indiana's Part D NSR Plan.

Wayne County's plan is being disapproved today. Therefore, the 110(a)(2)(I) restrictions will continue to apply in Wayne County. The SIP regulations for Wayne County remain those approved by EPA in 1976. Dearborn, Porter, and Warrick Counties are designated unclassifiable. Therefore, the 110(a)(2)(I) restrictions are not in effect in these three counties. The SIP regulations remain those approved by EPA in 1973 for Porter and Warrick Counties and those that were approved in 1976 for Dearborn County.

The conditional approval granted through this notice will remain in effect as long as the State meets its commitments according to the agreed upon schedule. This schedule is being proposed today elsewhere in the **Federal Register**. Failure to submit the necessary material by the scheduled date or inadequate submissions will require SIP disapproval by EPA (44 FR 67182, November 23, 1979). This would result in the imposition of growth restrictions for the disapproved counties. Furthermore, the SIP emission limitations would again become those contained in the regulations approved in 1976 for Lake and Marion Counties and those approved in 1973 for LaPorte County.

The 1980 edition of 40 CFR Part 52 lists in the subpart for each State, the applicable deadlines for attaining ambient standards (attainment dates) required by section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides attainment by the deadlines required by section 172(a) of the Act, the new deadlines will be substituted on the attainment date charts. The earlier attainment dates under section 110(a)(2)(A) will continue to appear in a footnote to charts published earlier. Sources subject to the plan requirements and deadlines established under section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new section 172 plan requirements.

Congress established new deadlines under section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. If these new deadlines were permitted to supersede the deadlines established prior to the 1977 Amendments, sources that failed to comply with pre-1977 plan requirements by the earlier deadlines would improperly receive more time to comply with those requirements. Congress, however, intended that the new deadlines apply only to new, additional control requirements and not to earlier requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source has to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D.
>
> (123 Cong. Rec., II 11958, daily ed. November 1, 1977)

To comply fully with the intent of Congress that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendment. Such variances would impermissibly relax existing requirements beyond the applicable section 110(a)(2)(A) attainment date under the plan. Therefore, for requirements adopted before the 1977 Amendments, EPA will not approve a compliance date extension beyond pre-existing 110(a)(2)(A) attainment dates, even though a section 172 plan revision with a later attainment date has been approved.

However, in certain exceptional circumstances, extensions beyond a pre-existing attainment date are permitted. For example, if a section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations, the pre-existing requirements and deadlines may be revised if a state makes a case-by-case demonstration that a relaxation or revocation is necessary. Any such exemption granted by a state will be reviewed and acted upon by EPA as a SIP revision. In addition, as discussed in the April 4, 1979 **Federal Register** (44 FR 20373), an extension may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.

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 will not be major as defined by Executive Order 12291, because this action either conditionally approves a State action and therefore imposes no new requirements beyond those imposed by the State, or it disapproves a State action and leaves in place a previous State action which also imposes no new requirements beyond those previously imposed by the State.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this SIP 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.

The Administrator finds good cause to make this rulemaking effective immediately because such approval imposes no new constraints above those already required by State law and because this rulemaking is a partial step to remove in some areas of Indiana the prohibitions on growth under section 110(a)(2)(I).

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110 and 172 of the Clean Air Act, as amended)

Dated: March 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

1. Section 52.770 is amended by adding paragraph (c)(19) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(19) On June 26, 1979, the Governor submitted a revised sulfur dioxide strategy, including regulation APC 13 with appendix, which was promulgated by the State on June 19, 1979 for all areas of the State. This included the Part D sulfur dioxide regulations for Lake, LaPorte, and Marion Counties. On

August 27, 1980 and July 16, 1981 the State committed itself to correct conditionally approved items within their strategy. On October 6, 1980, the State submitted a recodified version of APC 13 which was promulgated by the State on August 27, 1980. This included 325 IAC 7, 325 IAC 1.1–6, 325 IAC 1.1–7–2 and 4, 325 IAC 12–5–1 and 2(a), 325 IAC 12–9–1 and 4, and 325 IAC 12–18–1 and 2. EPA is not taking action on 325 IAC 7 as it applies to Floyd and Vigo Counties or on the 30-day averaging compliance method contained in 325 IAC 7–1–3.

2. Section 52.773 is amended by revising paragraph (a) and adding new paragraph (b) as follows:

§ 52.773 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves Indiana's plan for attainment and maintenance of the National Ambient Air Quality Standards under Section 110 of the Clean Air Act.

(b) The Administrator finds that the SO_2 strategies for Lake, LaPorte, and Marion County satisfy all requirements of Part D, Title I of the Clean Air Act as amended in 1977, except as noted below.

* * * * *

3. Section 52.795 is amended by adding paragraphs (c), (d) and (e) as follows:

§ 52.795 Control strategy: Sulfur dioxide.

* * * * *

(c) The requirements of section 51.10(d) are not met by Wayne, Dearborn, Jefferson, Porter, and Warrick Counties.

(d) 325 IAC 7 (October 6, 1980 submission) is disapproved insofar as the provisions identified below will interfere with the attainment and maintenance of the sulfur dioxide ambient air quality standards.

(1) The compliance timetables in Section 6 for sources with identical or relaxed emission limitations from those contained in the previously approved SIP.

(e) Part D—Conditional Approval)—The Indiana plan for Lake, LaPorte, and Marion Counties is approved provided that the following conditions are satisfied:

(1) Lake County—The plan must either contain an acceptable demonstration that the 24-hour standard is the constraining standard or 3-hour and annual attainment analyses must be provided. The plan must justify appropriate SO_2 background levels for all averaging periods. These must be used in all analyses. The plan must contain a complete emission inventory, including process sources. This inventory must be appropriately used in all analyses. Adequate receptor resolution must be used in the attainment analyses. If revisions to the limitations are necessary, they must be submitted as revisions to the SIP.

(2) LaPorte County—The plan must either contain an acceptable demonstration that the 24-hour standard is the constraining standard or 3-hour and annual attainment analyses must be provided. The plan must justify appropriate SO_2 background levels for all averaging periods. They must be used in all analyses. If revisions to the emission limitation are necessary, they must be submitted as revisions to the SIP.

(3) Marion County—The plan must either contain an acceptable demonstration that the 24-hour standard is the constraining standard or 3-hour and annual attainment analyses must be provided. The plan must justify appropriate background levels for all averaging periods. These must be used in all analyses. The plan must justify the adequacy of the resolution in a computer modeling receptor network. The plan must contain a complete emission inventory, including process sources. This inventory must be appropriately used in all analyses. If revisions to the emission limitations are necessary, they must be submitted as revisions to the SIP.

[FR Doc. 82–6622 Filed 3–11–82; 8:45 am]
BILLING CODE 6560–38–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6185

[W–71339]

Wyoming; Partial Revocation of Public Land Order No. 648

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a public land order as to 161.00 acres of land which were withdrawn for a Bureau of Land Management administrative site. A portion of the lands have been patented under the recreation and public purposes (R&PP) Act. The remainder are under R&PP lease. Consequently the lands will remain closed to operation of the public land laws, including the mining laws. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307–778–2220, extension 2336.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 648 of June 5, 1950, which withdrew land for use by the Bureau of Land Management as administrative sites, is hereby revoked in part as to the following described lands:

Sixth Principal Meridian

T. 46 N., R. 92 W.,
Sec. 7, lots 9–A, 9–B, 10–A, 10–B, 11–A, 11–B, and 12, (formerly lots 1 to 12 inclusive).

The lands described contains 161.00 acres in Washakie County.

2. The surface estate in 102.28 acres of the above described lands has been conveyed from United States ownership pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.), the remaining 58.72 acres are presently leased under that act; therefore, the lands will not be open to location under the United States mining laws. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982

[FR Doc. 82–6751 Filed 3–11–82; 8:45 am]
BILLING CODE 4310–84–M

43 CFR Public Land Order 6188

[A–16916]

Arizona; Revocation of Secretarial Order of July 26, 1928, Air Navigation Site No. 4

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order creating Air Navigation Site No. 4. This action which involves 640 acres of land is merely record clearing, since both the surface and mineral estates have been patented.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT:
Mario L. Lopez, Arizona State Office, 602–261–4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order of July 26, 1928, which withdrew the following described lands for use in connection with the Federal Aviation Administration, is hereby revoked:

Gila and Salt River Meridian

T. 5 S., R. 30 E.,
Sec. 11, NW¼, SW¼, S½SE¼;
Sec. 14, NW¼, N½NE¼.

The area described contains 640 acres in Greenlee County.

2. The surface and mineral estates have been patented and will not be open to operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning these lands should be addressed to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982.
[FR Doc. 82–6752 Filed 3–11–82; 8:45 am]
BILLING CODE 4310–84–M

43 CFR Public Land Order 6189

[C–12546]

Colorado; Partial Revocation of Powersite Classification 392; DA–455 Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a U.S. Geological Survey Order as to 520 acres of lands withdrawn for a powersite classification. The land remains withdrawn for reclamation purposes.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT:
Richard D. Tate, Colorado State Office, 303–837–2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976; 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination of the Federal Power Commission (now Federal Energy Regulatory Commission) by DA–455 Colorado, dated August 17, 1965, it is ordered as follows:

1. The lands described below are hereby relieved of all restrictions of Powersite Classification 392:

Ute Meridian

Powersite Classification No. 392, Colorado River Storage Project

T. 1 S., R. 1 E.,
Sec. 2, NE¼SW¼.
40 acres.

2. The lands described below, are hereby relieved of the restrictions of Powersite Classification No. 392, subject to Section 24 of the Federal Power Act, and to the condition that no improvements shall be placed upon any of the lands lying below the 4,800 foot-contour.

Ute Meridian

Powersite Classification No. 392, Colorado River Storage Project

T. 1 S., R. 1 E.,
Sec. 2, NW¼SW¼, S½S½;
Sec. 3, S½NW¼, NE¼SW¼, SE¼.
480 acres.

The areas described aggregate 520 acres in Mesa County.

3. The entire 520 acres remain withdrawn as part of a first form reclamation withdrawal for the Colorado River Storage Project.

Inquiries concerning this land should be addressed to the Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982.
[FR Doc. 82–6753 Filed 3–11–82; 8:45 am]
BILLING CODE 4310–84–M

43 CFR Public Land Order 6192

[U–42885]

Utah; Revocation of Stock Driveway Withdrawal No. 94

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes 1,023.50 acres of National Park Service land from a stock driveway withdrawal. These lands are within and remain a part of Bryce Canyon National Park. The purpose of this order is to clear the official land status of a withdrawal no longer needed.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT:
Deen Bowden, Utah State Office, 801–524–4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Departmental Order November 22, 1919, which withdrew stock driveway withdrawal No. 94 (Utah No. 4) is hereby revoked as to the following described lands:

Salt Lake Meridian

T. 36 S., R. 3 W.,
Sec. 3, S½SW¼;
Sec. 10, W½;
Sec. 14, W½W½;
Sec. 15, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 22, E½NE¼NE¼;
Sec. 23, NW¼NW¼.

The area described contains 1,023.50 acres on Garfield County.

2. The above described public lands continue to be closed to location, settlement or entry under the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, 136 E. South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982.
[FR Doc. 82–6754 Filed 3–11–82; 8:45 am]
BILLING CODE 4310–84–M

43 CFR Public Land Order 6196

[I–12546]

Idaho; Idaho: Public Land Order No. 6020; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This document will correct the land description of Public Land Order 6020 of October 2, 1981, which amended the land description and aggregate acreage of Public Land Order 5844 of February 20, 1981.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT:
Ed Puchalla, Washington D.C., Office, 202–343–6486.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

A description of lands in Public Land Order No. 6020 of October 2, 1981, in FR Doc. 81–28715 appearing at page 48666 in the issue of Friday, October 2, 1981, in the second column under T. 8 S., R. 13 E., the penultimate line reads "Sec. 12,

W½NW¼ and T. 8 S., Sec. 7, N½ of lot 6, N½SW¼NE¼." It should be amended to read: "Sec. 12, N½NW¼ and T. 8 S., R. 14 E., sec. 7, N½ of lot 6, N½SW¼NE¼."

Garrey E. Carruthers,

Assistant Secretary of the Interior.

March 2, 1982.

[FR Doc. 82-6415 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6260]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Arizona: Navajo	Taylor, town of	040071B	Feb. 3, 1982, suspension withdrawn	May 17, 1974 and Apr. 30, 1976.
Connecticut:				
Tolland	Andover, town of	090161A	do	Apr. 18, 1975.
Litchfield	New Hartford, town of	090048B	do	Sept. 13, 1974 and Feb. 11, 1977.
Windham	Windham, town of	090119C	do	Apr. 12, 1974 and Dec. 24, 1976.
Florida: Osceola	Unincorporated areas	120189B	do	Jan. 3, 1975 and Aug. 12, 1977.
Iowa: Linn	Hiawatha, city of	190441A	do	Apr. 23, 1976.
Massachusetts:				
Bristol	Easton, town of	250053B	do	Sept. 20, 1974 and Nov. 19, 1976.
Middlesex	Framingham, town of	250193B	do	Aug. 2, 1974 and Dec. 13, 1977.
Nebraska: Lancaster	Unincorporated areas	310134B	do	Feb. 28, 1978.
New Jersey:				
Gloucester	Franklin, township of	340202B	do	Sept. 13, 1974 and Aug. 13, 1976.
Hunterdon	Lebanon, borough of	345299B	do	Aug. 18, 1972.
Passaic	Ringwood, borough of	340407B	do	June 28, 1974 and July 16, 1976.
New York:				
Tioga	Newark Valley, town of	360835B	do	Feb. 22, 1974 and Oct. 10, 1975.
Do	Newark Valley, village of	360836B	do	June 7, 1974 and Apr. 30, 1976.
Niagara	Somerset, town of	360512B	do	Mar. 15, 1974 and June 18, 1976.
North Dakota: Cass	Pleasant, township of	380263A	do	
Oregon: Linn	Harrisburg, city of	410140B	do	Mar. 1, 1974 and June 25, 1976.
Pennsylvania: Fayette	Fayette City, borough of	420464B	do	Feb. 22, 1974 and Apr. 16, 1976.
Pennsylvania:				
Delaware	Lansdowne, borough of	420418B	do	May 31, 1974.
Montgomery	Lower Salford, township of	421170A	do	Nov. 1, 1974.
Do	Perkiomen, township of	421915B	do	Oct. 25, 1974 and May 28, 1976.
Allegheny	Robinson, township of	421097B	do	Sept. 20, 1974 and Aug. 20, 1976.
Montgomery	Salford, township of	422497A	do	Dec. 6, 1974.
South Dakota: Lawrence	Deadwood, city of	460045A	do	July 11, 1975.
Utah: Weber	Riverdale, city of	490190C	do	Mar. 13, 1979, June 28, 1974 and Nov. 28, 1975.
Virginia: Fairfax	Vienna, town of	510053B	do	Aug. 2, 1974 and Oct. 24, 1975.
Washington: Pierce	Fircrest, town of	530141B	do	June 28, 1974.
Alabama: Jefferson	Unincorporated areas	010217B	February 17, 1982, suspension withdrawn	July 7, 1978.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Connecticut: Litchfield	Harwinton, town of	090147B	do	June 28, 1974 and Oct. 22, 1976.
Idaho:				
Kootenai	Post Falls, city of	160083B	do	Jan. 9, 1974 and May 21, 1976.
Bonner	Priest River, city of	160026B	do	June 28, 1974 and Dec. 5, 1975.
Louisiana: Livingston	Walker, town of	220121A	do	Oct. 1, 1976.
Maryland: Washington	Hancock, town of	240109B	do	Aug. 9, 1974 and Dec. 19, 1975.
Michigan: Wayne	Allen Park, city of	260217B	do	May 3, 1974 and Jan. 10, 1975.
Minnesota: Hennepin	Brooklyn Center, city of	270151B	do	Nov. 9, 1973 and July 9, 1976.
New Jersey:				
Burlington	Burlington, township of	340090B	do	June 28, 1974 and Jan. 14, 1977.
Bergen	Tenafly, borough of	340076C	do	Jan. 16, 1974 and Oct. 24, 1975.
New York:				
Oswego	New Haven, town of	360655B	do	July 19, 1974 and Apr. 23, 1976.
Tioga	Nichols, town of	360837B	do	June 28, 1974 and Oct. 3, 1975.
Oswego	Phoenix, village of	360658B	do	Mar. 22, 1974.
Onondaga	Skaneateles, village of	360593B	do	May 31, 1974 and June 18, 1976.
Broome	Windsor, village of	360060B	do	June 19, 1975 and Oct. 24, 1975.
North Carolina: Cumberland	Unincorporated areas	370076B	do	Dec. 13, 1974 and July 28, 1978.
North Carolina:				
Wayne and Duplin	Mt. Olive, town of	370369B	do	July 10, 1975 and June 17, 1977.
Wayne	Seven Springs, town of	370392A	do	July 15, 1977.
Oklahoma: Tulsa	Jenks, city of	400209B	do	Jan. 9, 1974 and May 21, 1976.
Oregon: Washington	Tualatin, city of	410277C	do	May 20, 1977 and May 2, 1978.
Pennsylvania:				
Chester	East Coventry, township of	421478B	do	Oct. 18, 1974 and Mar. 19, 1976.
Lycoming	Hepburn, township of	420640B	do	May 10, 1974 and Sept. 24, 1976.
Westmoreland	Lower Burrell, city of	420885B	do	June 18, 1976 and June 28, 1974.
Do	Murrysville, municipality of	421207A	do	Nov. 5, 1976.
Washington: Thurston	Olympia, city of	530191B	do	June 28, 1974 and May 7, 1976.
Wisconsin:				
Brown	Howard, village of	550023B	do	Dec. 28, 1973 and May 14, 1976.
Kenosha	Unincorporated areas	550523A	do	Apr. 16, 1976.
Ozaukee	Port Washington, city of	550316B	do	June 11, 1976 and Oct. 15, 1981.
Vermont: Washington	Montpelier, city of	505518	do	July 1, 1974.
North Carolina:				
Henderson	Hendersonville, city of	370128B	Apr. 2, 1975, emergency; Jan. 20, 1982, regular; Jan. 20, 1982, suspended; Feb. 1, 1982, reinstated.	July 29, 1977.
Nash	Rocky Mount, city of	370092C	Jan. 17, 1974, emergency; Jan. 20, 1982, regular; Jan. 20, 1982, suspended; Feb. 1, 1982, reinstated.	Mar. 1, 1974, May 21, 1976, and May 1, 1978.
Colorado: Morgan	Fort Morgan, city of	080131A	Feb. 4, 1982, emergency	Feb. 6, 1979 and Oct. 29, 1976.
Florida: Wakulla	Sopchoppy, city of	120620-New	do	
Minnesota: Scott	Jordan, city of	270430C	Apr. 15, 1974, emergency; Jan. 6, 1982, regular; Jan. 6, 1982, suspended; Feb. 8, 1982, reinstated.	Mar. 8, 1974, Apr. 16, 1976, and Dec. 31, 1976.
Alabama: Tuscaloosa	Tuscaloosa, city of	010203A	Apr. 5, 1973, emergency; Feb. 1, 1979, regular; Jan. 6, 1982, suspended; Feb. 8, 1982, reinstated.	Oct. 24, 1975 and Feb. 1, 1979.
Oklahoma: Marshall	Oakland, town of	400313	Feb. 5, 1982, emergency	Oct. 29, 1976.
Illinois: Logan	Elkhart, village of	171010-New	Feb. 12, 1982, emergency	
Iowa: Delaware	Hopkinton, city of	190364	do	Oct. 29, 1976.
Ohio: Preble	Unincorporated areas	390460B	Feb. 12, 1982, emergency; Feb. 12, 1982, regular.	Aug. 26, 1977 and Apr. 15, 1981.
Wyoming: Carbon	Riverside, town of	560096-New	Feb. 12, 1982, emergency	
Illinois: Rock Island	Hampton, village of	170588B	May 29, 1975, emergency; Jan. 6, 1982, regular; Jan. 6, 1982, suspended; Feb. 12, 1982, reinstated.	Mar. 1, 1974, Feb. 14, 1975, and Jan. 6, 1982.
South Dakota: Pennington	Hill City, city of	460116B	July 9, 1976, emergency; Nov. 18, 1981, regular; Nov. 18, 1981, suspended; Feb. 11, 1982, reinstated.	Apr. 23, 1976, Sept. 5, 1978, and Nov. 18, 1981.
Oklahoma	All State owned land		Feb. 9, 1982, emergency	
Indiana:				
Clark	Utica, town of [1]	180487-New	Feb. 12, 1982, emergency; Feb. 12, 1982, regular.	
Tippecanoe	Dayton, town of	180486	Feb. 12, 1982, emergency; Feb. 12, 1982, regular.	
Michigan: Macomb	Washington, township of	260447	Feb. 12, 1982, emergency; Feb. 12, 1982, regular.	Nov. 5, 1976.
North Carolina: Union	Wingate, town of	370365A	Feb. 12, 1982, emergency; Feb. 12, 1982, regular.	Oct. 3, 1975 and Dec. 1, 1981.
Pennsylvania: Fayette	Perryopolis, borough of	421616B	Feb. 18, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended; Feb. 16, 1982, reinstated.	Feb. 18, 1975 and July 22, 1977.
New York: Allegany	Ward, town of	361605-New	Feb. 17, 1982, emergency	
Texas: Cooke	Muenster, city of	480767	Feb. 12, 1982, emergency	July 5, 1975.
Virginia	Falls Church, city of	510054B	Apr. 24, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended; Feb. 16, 1982, reinstated.	May 7, 1976.
Pennsylvania: Allegheny	Pittsburgh, city of	420063B	Apr. 13, 1973, emergency; Dec. 15, 1981, regular; Dec. 15, 1981, suspended; Feb. 16, 1982, reinstated.	Mar. 8, 1974 and Aug. 20, 1976.
North Dakota: Ward	Burlington, township of [2]	380650-New	Feb. 19, 1982, emergency; Feb. 19, 1982, regular.	
South Carolina: Richland	Unincorporated areas	450170C	Sept. 20, 1974, emergency; Nov. 4, 1981, regular; Nov. 4, 1981, suspended; Feb. 26, 1982, reinstated.	July 29, 1977 and May 12, 1978.

[1] This is an incorporated community which was formally contained entirely in Clark County, IN. Since the community was part of a Regular Program community, it is being entered directly into the Regular Program and will use Clark County's map in the interim for insurance and flood plain management purposes. (Hazard Area ID date—Feb. 24, 1978 and Sept. 30, 1980; Eff. Firm: Sept. 30, 1980).

[2] The Township of Burlington will adopt the City of Minot, Ward County, North Dakota's map and study for insurance and flood plain management purposes. Comm. No. 385367A, Hazard Area ID dates: Mar. 16, 1970, July 1, 1974 and Nov. 14, 1975; Eff. Firm: Mar. 17, 1970.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: March 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6597 Filed 3-11-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6258]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood loses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date[1]
Arizona: Mohave	Unincorporated areas	040058B	May 6, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Feb. 6, 1979	Mar. 15, 1982.
Arkansas:					
Sebastian	Hackett, town of	050199B	Apr. 25, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Oct. 18, 1974 and Dec. 5, 1975.	Do.
Do	Hartford, city of	050200B	Mar. 12, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 8, 1974	Do.
Do	Lavaca, town of	050201	May 6, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	May 10, 1974 and Nov. 28, 1975.	Do.
Franklin	Ozark, city of	050358A	Feb. 5, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Sept. 26, 1975	Do.
Ashley	Wilmot, city of	050009B	Jan. 14, 1985, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 15, 1974 and Oct. 3, 1975.	Do.
Florida: St. Lucie	Port St. Lucie, city of	120287B	May 7, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Dec. 13, 1974 and Apr. 9, 1976.	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date[1]
Illinois:					
Jackson	Makanda, village of	170301C	Mar. 17, 1980, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Aug. 23, 1974, Dec. 26, 1975 and Mar. 23, 1979.	Do.
Cook	Westhaven, village of	170172B	Feb. 18, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Apr. 15, 1974 and June 4, 1976.	Do.
Indiana:					
Bartholomew	Unincorporated areas	180006B	Jan. 20, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Sept. 20, 1974 and July 30, 1976.	Do.
Lake	Cedar Lake, town of	180127B	July 25, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Dec. 28, 1973 and Mar. 26, 1976.	Do.
Kentucky: Greenup	Raceland, city of	210089B	Jan. 21, 1976, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Feb. 8, 1974 and Apr. 9, 1976.	Do.
Maine: Washington	Baring Planation	230468	Mar. 19, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Jan. 31, 1975	Do.
Massachusetts: Worcester	Southbridge, town of	250334B	May 15, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 22, 1974 and Oct. 29, 1976.	Do.
Michigan:					
Kalamazoo	Augusta, village of	260312B	May 20, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 8, 1974 and Feb. 7, 1975.	Do.
Do	Ross, township of	260624A	July 24, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.		Do.
Minnesota:					
Aitkin	Aitkin, city of	270001B	June 7, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Jan. 9, 1974 and Aug. 13, 1976.	Do.
Do	Unicorporated areas	270628B	Apr. 23, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Dec. 30, 1977	Do.
Houston	Hokah, city of	270192B	Nov. 29, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 8, 1974 and June 4, 1976.	Do.
Montana: Gallatin	Bozeman, city of	300028B	May 12, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Feb. 15, 1974 and Feb. 13, 1976.	Do.
New Jersey: Morris	Harding, township of	340344B	June 10, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Apr. 12, 1974 and Feb. 20, 1976.	Do.
New York: Westchester	Harrison, town of	360912A	Feb. 2, 1973, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 5, 1976	Do.
Oregon:					
Washington	Forest Grove, city of	410241B	June 4, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 1, 1974 and Apr. 16, 1976.	Do.
Yamhill	Willamina, city of	410258B	Jan. 21, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Dec. 28, 1973 and Dec. 26, 1975.	Do.
Pennsylvania:					
Allegheny	Collier, township of	421058B	July 7, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	July 19, 1974 and Apr. 30, 1976.	Do.
Berks	Exeter, township of	421063B	Sept. 27, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Aug. 13, 1974 and July 30, 1976.	Do.
Montgomery	Franconia, township of	422494A	Oct. 24, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Dec. 6, 1974	Do.
Washington: Jefferson	Port Townsend, city of	530070B	June 11, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	June 14, 1974 and Jan. 9, 1976.	Do.
Texas: Harris	Jersey Village, city of	480300B	Oct. 9, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Apr. 5, 1974 and June 27, 1975.	Do.
New York: Oswego	New Haven, town of	360655B	Dec. 23, 1975, emergency; Feb. 17, 1982, regular; Mar. 15, 1982, suspended.	July 19, 1974	Do.
Rhode Island: Kent	Warwick, city of	445409C	Apr. 6, 1973, emergency; Apr. 6, 1973, regular; Mar. 15, 1982, suspended.	Apr. 6, 1973 and June 18, 1976.	Do.
Massachusetts: Plymouth	Marion, city of	255213B	Oct. 8, 1971, emergency; Apr. 6, 1973, regular; Mar. 15, 1982, suspended.	Jan. 2, 1976	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: March 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6596 Filed 3-11-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6259]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The effective date shown at the top right of the table or April 12, 1982, whichever is later.

FOR FURTHER INFORMATION CONTACT: Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood

hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30-day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 of Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information or regarding the completed stages of engineering tasks in delineating the special flood hazard areas of the specified community This rule imposes no new requirements or regulations on participating communities.

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

EFFECTIVE DATE March 2, 1982

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF		10 PREVIOUS MAP DATES		11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
								FHBM	FIRM	FHBM	FIRM				
MT	300046	Meagher County (Unincorporated Areas) (Index - 0006A, 0010A 0014A, 0015A, 0018A 0019A thru 0021A, 0023A 0024A, 0025A, 0027A, 0028A)		I	FL	B	I	2	1	N/A	N/A	N/A	N/A	N/A	Mr. A. C. Grande, Jr. Chairman Co. Commissioners P. O. Box 309 White Sulphur Springs, MT (406) 547-3612
EFFECTIVE DATE: March 5, 1982															
OH	390795	Village of Enon Clark County	0001B	I	FL	B	I	3	1	2/17/78	N/A	10	N/A	N/A	Charles E. Koons, Mayor 95 Helen Street Enon, Ohio 45323 513-864-7936
PA	421981	Township of Menno Mifflin County	0001A 0002A	I	FL	B	4	3	1	11/22/74	N/A	9 10 16	N/A	N/A	Richard L. Yoder, Chairman TWP Board of Supervisors R. D. 1, Box 314A Belleville, PA 17004 717-935-2111
WV	540121	Town of Northfork McDowell County	0001B	I	FL	B	I	3	1	5/24/74 5/28/76	N/A	10	N/A	N/A	Paul Miller, Mayor P. O. Box 479 Northfork, WV 24868 304-862-3414
WI	550449	City of Whitehall Tempealeau County	0001B	I	FL	B	I	3	1	12/17/73 5/14/76	N/A	9 10 16	N/A	N/A	William Gardner, Mayor 1631 Main Street P. O. Box 155 Whitehall, WI 54773 715-538-4353
EFFECTIVE DATE: March 12, 1982															
IL	170057	Village of Barrington Cook & Lake Cos.	0001B	I	FL	B	I	3	1	3/22/74 9/24/76	N/A	10	N/A	N/A	Bruce Trego, Village Manager 206 S. Hough Street Barrington, IL 60010 312-381-2141

EFFECTIVE DATE March 12, 1982

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
WI	550331	Village of Spring Valley (Pierce & Croix Cos.)	0001B	I	FL	B	1	3	1	6/14/74 7/18/75	N/A	9 10 16	N/A	N/A	James Baumgartner Village President P. O. Box 276 Spring Valley, WI 54767 715-778-5635 (Clerk's No.)
													EFFECTIVE DATE: March 19, 1982		
VA	510203	Orange County Unincorporated Areas	0001A thru 0008A	I	FL	B	1	3	1	1/31/75	N/A	9 10 16	N/A	N/A	A. Terrell Baskerville County Administrator Box 111 Orange, VA 22960 703-672-3313
													EFFECTIVE DATE: March 26, 1982		
IL	170652	Village of Morton Tazewell County	0001C 0002C	I	FL	B	1	3	1	5/31/74 11/19/76 7/27/79	N/A	10	N/A	N/A	Robert Hertenstein, President Village Board of Trustees 120 North Main Street Morton, IL 61550 309-266-5361
OH	390261	Village of Scio Harrison County	0001B	I	FL	B	1	3	1	5/3/74 7/30/76	N/A	9 10 16	N/A	N/A	Darreld Snider, Mayor P . O. Box 307 Scio, Ohio 43988 614-945-4824
WI	550433	Village of Gilman Taylor County	0001B	I	FL	B	1	3	1	6/28/74 5/14/75	N/A	9 10 16	N/A	N/A	Gerald DeStaercke Village President P.O. Box 157 Gilman, WI 54433 715-447-5779
OK	400472	Garvin County Uninvorporated Areas (Index - 0025A, 0050A 0075A, 0100A, 0125A 0150A, 0175A, 0200A 0225A, 0250A, 0275A)		I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Robert Brooks, Chairman Board of County Commissioners Box 237 Pauls Valley, OK 73075

BILLING CODE 6718-03-C

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: March 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6596 Filed 3-11-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 13

Implementation of the Equal Access to Justice Act in Agency Proceedings

AGENCY: Office of the Secretary, HHS.

ACTION: Interim final rule, with subsequent comment period.

SUMMARY: These regulations implement the Equal Access to Justice Act, 5 U.S.C. 504 and 504 note, for the Department of Health and Human Services. They describe the circumstances under which the Department may award attorneys fees and certain other expenses to eligible individuals and entities who prevail over the Department in specified administrative proceedings where the Department's position in the proceeding was not substantially justified.

DATES: This interim final regulation is effective October 1, 1981, except for §§ 13.10, 13.11, and 13.12 which will become effective upon approval by the Office of Management and Budget. The Department will accept comments on these regulations through May 11, 1982, and will revise the regulation, if appropriate, in response to the comments received before issuing a final regulation.

ADDRESS: Comments must be in writing and sent to: Darrel Grinstead, Assistant General Counsel, Business and Administrative Law Division, Room 5362, 330 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Darrel Grinstead, Assistant General Counsel, Business and Administrative Law Division, Room 5362, 330 Independence Ave., S.W., Washington, D.C. 20201, Telephone (202) 245–2151.

SUPPLEMENTARY INFORMATION: These interim final rules are issued to implement section 203 of the Equal Access to Justice Act, Pub. L. 96–481, for the Department of Health and Human Services. That section enacts 5 U.S.C. 504, which provides that the Department shall award attorney fees and certain other expenses which eligible applicants have incurred in certain administrative proceedings, unless the Department's position in the proceeding was substantially justified or unless special circumstances make an award unjust. These rules apply only to "adversary adjudications," which the Act defines as "adjudication[s] under [5 U.S.C. 554] in which the position of the United States is represented by counsel or otherwise, but exclud[ing] adjudication[s] for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license." Four categories of parties are eligible for fee awards: (1) Individuals whose net worth is no more than $1 million; (2) businesses (including sole owners of unincorporated businesses), associations and organizations with a net worth of no more than $5 million and no more than 500 employees; (3) organizations that are tax exempt under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with no more than 500 employees, regardless of net worth, and (4) agricultural cooperative associations as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with no more than 500 employees, regardless of net worth.

The Administrative Conference of the United States ("ACUS") published model rules on June 25, 1981 (46 FR 32900) as a guide to agencies in adopting their own rules to implement the Act. ACUS does not take the position that agencies must adopt rules which are identical to the model rules. The differences between these proposed rules and the model rules are discussed in this preamble.

The Department finds that it is impractical and contrary to the public interest to follow notice and comment rulemaking procedures for this regulation and that good cause exists to publish these regulations as an interim final rule. The provisions of the Equal Access to Justice Act became effective on October 1, 1981, at which time eligible applicants could begin to apply for awards. Issuance of these regulations as interim final will permit applicants to have notice of eligibility requirements and application procedures in order to apply for an award. Furthermore, the model rules published by ACUS, on which these interim final rules are substantially based, were the subject of a 45 day comment period before they were issued in their final form.

Notwithstanding the omission of notice and comment procedures, comments will be accepted for a 60-day period. The Department will carefully review all comments received during this period before publishing the final rule.

These interim regulations contain three subparts covering the following subjects: (1) General provisions explaining the rules and their standards, eligibility requirements, and the fees and expenses reimbursable under the rules; (2) the information required of applicants and (3) procedures for considering applications.

Subpart A—General Provisions

Subpart A contains general provisions explaining the interim rules and their coverage and some miscellaneous provisions. Several of these sections are self-explanatory and require no extended explanation: 13.1 states the purpose of the rules; 13.2 sets forth the effective dates of the rules; 13.8 delegates authority to implement the regulations to Department officials. The other provisions discussed below deal with the proceedings covered, eligibility, the standards for awards, and allowable fees and expenses.

Covered proceedings: Section 13.3 identifies the categories of proceedings subject to the rules. The section describes what is meant by an adversary adjudication and states that ratemaking and licensing proceedings, other than proceedings involving the withdrawal of licenses, are not covered by the Act. Specific proceedings which would ordinarily be covered are listed in Appendix A.

In determining which Departmental proceedings are "under section 554", we have included those where the statute specifically provides or has been construed to provide for a decision on the record after an opportunity for hearing. We have not included proceedings where, although the statute does not require a section 554 hearing, the Department voluntarily uses section 554 procedures. This is consistent with the ACUS model rules.

The Department has determined that many of its proceedings are not within the scope of the Act. Adjudications of claims under the Social Security programs are not covered because the Department is not represented. Proceedings involving States are not covered because States would not meet the eligibility requirement for an award. Proceedings related to decertification of providers under the Medicare and Medicaid programs are not proceedings

for the withdrawal of licenses and therefore are not covered.

Proceedings which result from FDA's denial of applications for new drugs, new animal drugs and medicated feed, and medical device premarket approval are expressly excluded from coverage by the regulations. This exclusion is based on the statutory exemption for proceedings to grant licenses, since denial of a license is one of the possible results of such a proceeding. However, this exemption does not apply to proceedings to withdraw previously approved applications, which are included in Appendix A as covered proceedings.

The Department has determined that proceedings before the Provider Reimbursement Review Board are not within the scope of the Act, except in those cases where the Department actually acts as the fiscal intermediary in the adjudication. When the Department does not act as intermediary, it has no control over the conduct of the adjudication by the private fiscal intermediary.

The Department has not included proceedings before contract appeals boards or similar bodies. The Act indicates that proceedings of boards of contract appeals are not included within the scope of the Act. Section 204 of the Act, 28 U.S.C. 2412(d)(3), provides that courts shall award fees in actions for judicial review of adversary adjudications as defined in 5 U.S.C. 504 *or* of adversary adjudications subject to the Contract Disputes Act of 1978, thus implying that Congress did not regard the latter category of cases to be "under" section 554 for this purpose.

Eligible parties: Section 13.4 deals with eligibility for awards under the Act. The section recites the categories of parties eligible for awards and the applicable limitations on net worth and number of employees. The rules follow the Act by providing that eligibility should be determined as of the time the adversary adjudication was initiated. The applicant has the burden of demonstrating that it meets the eligibility criteria.

The section also contains two provisions intended to prevent ineligible parties from obtaining fee awards indirectly. Paragraph (f) sets forth the impact on eligibility of the assets of an applicant's affiliates, such as wholly-owned subsidiaries or businesses under common control. The provision requires that assets of affiliates be aggregated to determine an applicant's net worth. Paragraph (g) provides that an applicant is not eligible if the applicant is participating in the proceeding only or primarily on behalf of ineligible applicants.

Standards for awards: Section 13.5 repeats the statutory standard that an applicant may not receive an award for fees and expenses where the Department's position in the proceeding was substantially justified. Neither ACUS's model rules nor the statute define "substantially justified". These interim rules clarify that the mere fact that a party has prevailed in a proceeding creates no presumption that the Department's position was not substantially justified. The Department has the burden of demonstrating that its position was substantially justified, in fact and law, at the time the proceeding was initiated. We believe it is reasonable to evaluate the decision to initiate a proceeding on the basis of the information available to the Department at the time the proceeding was initiated, rather than based on superior hindsight judgment.

The ACUS model rules provide for awards for fees and expenses incurred when an applicant has prevailed in a proceeding "or in a significant and discrete substantive portion of the proceeding". To make it clear that awards will not be made when an applicant prevails on an ancillary matter or on an interlocutory procedural issue, the Department's interim rules allow for an award of fees for a portion of a proceeding only when that portion could have been heard separately from the remainder of the proceeding.

Under paragraph (c) of § 13.5, awards could include fees and expenses incurred before the date a proceeding begins, if they are reasonably necessary to prepare for the proceeding. Paragraph (d) explains the Act's provision that awards may be reduced or denied if applicants unduly protract proceedings, or if special circumstances make an award unjust.

Allowable Fees and Expenses: The interim rules have been drafted to provide that a party which has prevailed over the Department in an adjudicatory proceeding covered by the Act, in which the Department's position was not substantially justified, may be reimbursed for its actual reasonable expenses to the extent permitted by the Act. These interim rules differ from the model rules in that ACUS would allow an award 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 free or at a reduced rate.

The Department believes that its approach is consistent with the clear language of the Act. Section 504(a)(1) of title 5 provides for awards of "fees and other expenses *incurred*" by a prevailing party (emphasis added). Section 504(b)(1)(A) defines "fees and other expenses" to include reasonable attorney or agent fees based upon prevailing market rates. Thus, based on section 504(a)(1), read in conjunction with section 504(b)(1)(A), the Department's rules provide that (1) fee awards can be made as reimbursement for reasonable expenses actually incurred by entitled prevailing parties; and that (2) the reasonableness of such expenses shall be determined on the basis of prevailing market rates. The model rules adopted by ACUS, by making awards on the basis of rates customarily charged, render meaningless the word "incurred."

These interim rules provide that any award under the Act shall be reduced by any reimbursement the party has already received, or is eligible to receive, from the government under any other statute, regulation or program. The purpose of this provision is to avoid providing a party with a windfall by reimbursing the same expenditure twice. ACUS agrees that applicants shoud not be entitled to double payment, but believes an explicit provision is not necesary in its model rules. We believe, however, that an explicit provision would be useful to avoid confusion.

These interim rules also clarify that parties may not be reimbursed for studies, analyses, engineering reports, tests and projects which are necessary to satisfy statutory or regulatory requirements or which would ordinarily be conducted as part of the party's business irrespective of the administative proceeding. For example, there are statutory requirements that sponsors of new drug applications, new animal drug applications, and medical device premarket approval applications utilize studies to show the safety and effectiveness of their products (21 U.S.C. 355, 360b, 360e), and sponsors may rely on such studies in a proceeding to withdraw an approved application. In adopting these statutory requirements, however, Congress has chosen to place the burden of testing for safety and effectiveness on the sponsor, which will profit from the sale of its product, and not on the government. The Department believes that awards for such testing, when relied on in proceedings for the withdrawal of approved applications, would not be "reasonable" because the testing is necessary to meet statutory requirements rather than to prepare for the party's case.

The Department believes that the provision in the ACUS model rules

allowing rulemaking on hourly rates for attorneys is unnecessary and has not adopted it. The Act provides that an agency can by regulation increase the $75 an hour statutory maximum. The component agencies and offices of the Department are free to entertain requests to raise the statutory amount under their individual procedures.

The Department also has not adopted the provision in the model rules on proceedings involving two agencies, as we do not believe this situation will arise within the Department.

Subpart B—Information Required From Applicants

Subpart B identifies the information to be included in an application for an award of fees and expenses. The Act itself requires submission of "an application which shows that the party is a prevailing party and is eligible to receive an award under this section, and the amount sought, including an itemized statement from any attorney, agent, or expert witness representing or appearing on behalf of the party stating the actual time expended and the rate at which fees and other expenses were computed." 5 U.S.C. 504(a)(2). The Act also requires the applicant to assert that the position of the agency was not substantially justified.

The goal of the regulatory provisions is to elicit sufficient information on these subjects for the adjudicative officer to make an informed determination on the application without unduly burdening the applicant. The provisions follow closely the model rules and divide the application into three parts: the application (§ 13.10), the net worth exhibit (§ 13.11), and statements of fees and expenses (§ 13.12). The Department is required to and will submit to the Office of Management and Budget for review and approval the reporting requirements in these sections. These provisions will not become effective until approved by OMB.

In the basic application, the applicant is to identify itself, the proceeding, and the issues on which it believes it has prevailed and as to which the agency's position was not substantially justified at the time of the initiation of the proceeding. The applicant then provides basic information on eligibility: the number of employees where applicable; a description of affiliated individuals or entities, if any; a statement that the applicant's net worth when the proceeding began did not exceed the ceiling for its category (for all applicants except tax exempt organizations and agricultural cooperatives); and a statement of the amount of fees and expenses for which an award is sought. The only item we have added to the provisions in the model rules is that the applicant must indicate whether it has or will apply for reimbursement of its expenses under another program or statute. The application is to be signed by the applicant or a responsible officer or attorney of the applicant, accompanied by a written verification under oath or penalty of perjury.

The applicant would not be required to include documentary proof of its statements as to the number of employees, affiliated individuals or entities, or tax-exempt status. However, the Department may request documentation if there is any reason to question the accuracy of the statements made.

All applicants except tax exempt organizations and agricultural cooperatives would also have to file a net worth exhibit under § 13.11. The statement would list the applicant's and its affiliates' assets and liabilities, in any form convenient for the applicant.

An applicant can request confidential treatment for its statement of net worth by submitting it in a sealed envelope, accompanied by a motion to withhold the information from public disclosure explaining why the information falls within one of the exemptions from disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), and why disclosure is not required in the public interest. If the adjudicative officer finds the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, it will be kept confidential, and any request to inspect or copy the exhibit shall be disposed of in accordance with the Department's procedures for confidential records under the Freedom of Information Act.

The third section in the subpart explains what must be included to document fees and expenses. The provision requires a separate itemized statement of work performed, and fees and expenses claimed, for each attorney, witness, or agent for whose services an award is requested. The statement must be verified by the person (or representative of the firm) who performed the services. Unlike the model rules, these regulations require that the itemized statements indicate the allocation of fees and expenses between covered and excluded proceedings when the adversary adjudication included both, and between two or more separable matters where the applicant did not prevail on all matters in the proceeding which could have been heard separately. The purpose of requiring this allocation of fees and expenses is to assure that the Department reimburses the applicant only for "reasonable" fees and expenses as required by the Act. The applicant should not be able to receive a windfall by charging most or all of its expenses in a proceeding to those matters for which reimbursement is available under these rules while undervaluing the expenses and fees incurred for work on ineligible or excluded matters or proceedings. The application would not have to include documentation of expenses incurred, but the adjudicative officer may request verification in appropriate cases.

Subpart C—Procedures for Considering Applications

Subpart C contains the procedures governing the consideration of applications for awards. The proceedings on the fee applications are designed to be as brief and simple as possible. Each party has a full and fair opportunity to challenge the other party's assertions and to present opposing evidence, while allowing the applicant to receive any award to which it is entitled within a reasonable period of time.

The pleadings involved in award proceedings include the application, an answer by the agency, a reply by the applicant, and comments by other parties. As in the ACUS model rules, these pleadings are to be filed and served in the same manner as other pleadings in the proceeding except for confidential statements of net worth, the service of which is covered by § 13.11(c).

The interim rules require that an application for an award be filed no later than 30 days after the agency issues a final decision making the applicant the prevailing party. An applicant can be a prevailing party only if the agency takes final action favorable to the applicant on any matter which could have been heard as a separate adversary adjudication, whether or not that matter was in fact joined with other allegations for hearing. Action favorable to a party on a interlocutory matter does not qualify that party for an award.

The interim rules require the agency's litigating party to file an answer to the application within 30 days, unless an extension is granted. Unlike the ACUS rules, the Department's rules do not provide that failure to file an answer will be treated as consent to the award requested. They require that an answer either expressly consent to the award or explain in detail the objections to the award. The Department has not adopted

the ACUS provision that the parties may file a statement of intent to negotiate a settlement, for we believe this is unnecessary. The rules provide for the granting of extensions of the deadline for filing an answer if in fact the parties are negotiating. As in the ACUS model rules, any other participant in the hearing may file comments on the application within 30 days or on the answer within fifteen days, but, unlike the ACUS rules, the Department's regulations do not prohibit the commenting party from further participation in the proceeding. Responsive pleadings that rely on facts not in the record would have to be accompanied by affidavits or by requests for further proceedings to develop the necessary evidence.

The Department's § 13.24 requires that all settlements be approved by the adjudicative officer and by the head of the agency or office or his or her designee before becoming final. The Department believes that review of settlements is a necessary check on the amount and consistency of settlements made by attorneys who may not be aware of budgetary constraints within the Department.

The Department has adopted the provisions of the ACUS rules concerning further proceedings—informal conferences, oral argument, orders for additional written submissions, and evidentiary hearings, although the rules encourage a decision on the written record whenever possible. On request or on his or her own initiative, the adjudicative officer could order such proceedings when necessary to provide an adequate record for decision. However, the Department believes that adjudicative officers must be able to impose certain sanctions for failure to comply with their orders. Therefore, the proposal includes a provision for the adjudicative officer to impose sanctions on either the applicant or the Department, including but not limited to diminution of awards and dismissal of the application.

The interim rules direct adjudicative officers to issue their decisions as promptly as possible, and to include in the decision written findings and conclusions on the applicant's eligibility and status as a prevailing party. The section departs from the model rules in that it requires the adjudicative officer to make an express finding on the applicant's net worth. The Department believes that without such a finding, effective review might be impossible. If the net worth information is to be kept confidential under § 13.11, then this finding shall also be kept confidential. Consistent with the Department's view that the agency head or his or her designee should review any award, the rules provide for automatic review of the adjudicative officer's initial decision whether or not exceptions are made.

The proposed rule follows the ACUS rules in providing for judicial review of final agency decisions on the award under 5 U.S.C. 504(c)(2).

Impact of Regulations

The Secretary certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, that this regulation will not have a significant economic impact on a substantial number of small entities. The reason for the Secretary's certification is that, although small entities are eligible to apply for awards, the regulation applies only to a small number of the proceedings held by the Department each year, and in many of those proceedings the Department's position will be substantially justified.

The Secretary has also determined, in accordance with Executive Order 12291, that the proposed rule does not constitute a "major rule" because it will not have an annual effect on the economy of $100 million or more; result in a major increase in costs or prices for consumers, any industries, any governmental agencies or geographic regions; or have significant and 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. A regulatory analysis is not required.

Dated: February 12, 1982.

Richard S. Schweiker,

Secretary.

Title 45 of the Code of Federal Regulations is amended by adding a new Part 13 to read as follows:

PART 13—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Subpart A—General Provisions

Sec.

Subpart B—Information Required From Applicants

Subpart C—Procedures for Considering Applications

Authority: Sec. 203(a)(1), Pub. L. 96-481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)).

Subpart A—General Provisions

§ 13.1 Purpose of these rules.

These rules implement section 203 of the Equal Access to Justice Act, 5 U.S.C. 504 and 504 note, for the Department of Health and Human Services. They describe the circumstances under which the Department may award attorney fees and certain other expenses to eligible individuals and entities who prevail over the Department in certain administrative proceedings (called "adversary adjudications"). The Department may reimburse parties for expenses incurred in adversary adjudications if the party prevails in the proceeding and if the Department's position in the proceeding was not substantially justified. These rules explain how to apply for an award. They also describe what proceedings constitute adversary adjudications covered by the Act, what types of persons and entities may be eligible for an award, and what procedures and standards the Department will use to make a determination as to whether a party may receive an award.

§ 13.2 When these rules apply.

These rules apply to adversary adjudications pending before the Department between October 1, 1981 and September 30, 1984.

§ 13.3 Proceedings covered.

(a) These rules apply only to adversary adjudications. For the purpose of these rules, only an adjudication required to be under 5 U.S.C. 554, in which the position of the Department or one of its components is represented by an attorney or other representative ("the agency's litigating party") who enters an appearance and participates in the proceeding, constitutes an adversary adjudication. These rules do not apply to proceedings for the purpose of establishing or fixing a rate or for the purpose of granting, denying, or renewing a license. Department proceedings covered by

these rules, if the agency's litigating party enters an appearance and participates, are listed in Appendix A. However, if a party to a proceeding believes that a proceeding not listed in Appendix A is covered by these rules, the party may file an application; whether the proceeding is covered will then be an issue for resolution in the proceedings on the application.

(b) If a proceeding is covered by these rules, but also involves issues excluded under paragraph (a) of this section from the coverage of these rules, reimbursement is available only for fees and expenses resulting from covered issues.

§ 13.4 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under these regulations, the applicant must be a party, as defined in 5 U.S.C. 551(3), to the adversary adjudication for which it seeks an award. An applicant must show that it meets all conditions of eligibility set out in this subpart and in subpart B.

(b) The categories of eligible applicants are as follows:

(1) Individuals with a net worth of not more than $1 million;

(2) Sole owners of unincorporated businesses if the owner has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees;

(3) Charitable or other tax-exempt organizations described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) Cooperative associations as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees, and

(5) All other partnerships, corporations, associations or public or private organizations with a net worth of not more than $5 million and with not more than 500 employees.

(c) For the purpose of determining eligibility, the net worth and number of employees of an applicant is calculated as of the date the proceeding was initiated. The net worth of an applicant is determined by generally accepted accounting principles.

(d) Whether an applicant who owns an unincorporated business will be considered as an "individual" or a "sole owner of an unincorporated business" will be determined by whether the applicant's participation in the proceeding is related primarily to individual interests or to business interests.

(e) The employees of an applicant include all those persons regularly providing services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the adjudicative officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the adjudicative officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant is not eligible if it appears from the facts and circumstances that it has participated in the proceedings only or primarily on behalf of other persons or entities that are ineligible.

§ 13.5 Standards for awards.

(a) Awards will not be made for fees and expenses where the Department's position in the proceeding was substantially justified at the time the proceeding was initiated. The fact that a party has prevailed in a proceeding does not create a presumption that the Department's position was not substantially justified. The burden of proof that an award should not be made to an eligible prevailing applicant is on the agency's litigating party, which may avoid an award by showing that its position was reasonable in law and fact.

(b) When two or more matters are joined together for one hearing, each of which could have been heard separately, and an applicant has prevailed with respect to one or several of the matters, an eligible applicant may receive an award for expenses associated only with the matters on which it prevailed if the Department's position on those matters was not substantially justified.

(c) Awards for fees and expenses incurred before the date on which a proceeding was initiated will be made only if the applicant can demonstrate that they were reasonably incurred in preparation for the proceeding.

(d) Awards will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if other special circumstances make an award unjust.

§ 13.6 Allowable fees and expenses.

(a) Awards will be limited to the rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses. Awards will not be made for more than the applicant's actual expenses. If a party has already received, or is eligible to receive, reimbursement for any expenses under another statutory provision or another program allowing reimbursement, its award under these rules must be reduced by the amount the prevailing party has already received, or is eligible to receive, from the government.

(b) An award for the fees of an attorney or agent may not exceed $75.00 per hour, regardless of the actual rate charged by the attorney or agent. An award for the fees of an expert witness may not exceed the highest rate at which the Department pays expert witnesses, which is $24.09 per hour, regardless of the actual rates charged by the witness. These limits apply only to fees; an award may include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges separately for such expenses.

(c) In determining the reasonableness of the fees sought for attorneys, agents or expert witnesses, the adjudicative officer must consider factors bearing on the request, which include, but are not limited to:

(1) If the attorney, agent or witness is in private practice, his or her customary fee for like services; if the attorney, agent or witness is an employee of the applicant, the fully allocated cost of services;

(2) The prevailing rate for similar services in the community in which the attorney, agent or 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.

§ 13.7 Studies, exhibits, analyses, engineering reports, tests and projects.

The reasonable cost (or the reasonable portion of the cost) for any study, exhibit, analysis, engineering

report, test, project or similar matter prepared on behalf of a party may be awarded to the extent that:

(a) The charge for the service does not exceed the prevailing rate payable for similar services,

(b) The study or other matter was necessary to the preparation for the administrative proceeding, and

(c) The study or other matter was prepared for use in connection with the administrative proceeding. No award will be made for a study or other matter which was necessary to satisfy statutory or regulatory requirements, or which would ordinarily be conducted as part of the party's business irrespective of the administrative proceeding.

§ 13.8 Delegations of authority.

Authority to take final action on matters pertaining to section 203 of the Equal Access to Justice Act, 5 U.S.C. 504, is hereby delegated to the heads of the component agencies and offices of the Department or their designees as follows: With respect to the Social Security Administration, to the Commissioner; with respect to the Health Care Financing Administration, to the Administrator; with respect to the Office of Human Development Services, to the Assistant Secretary for Human Development Services; with respect to the Public Health Service, to the Assistant Secretary for Health; with respect to the Food and Drug Administration, to the Commissioner; with respect to the office of Civil Rights, to the Director. These office and agency heads or their designees may develop procedures and regulations where necessary to supplement these regulations.

Subpart B—Information Required From Applicants

§ 13.10 Contents of application.

(a) Applications for an award of fees and expenses must include:

(1) The name of the applicant and the identification of the proceeding;

(2) A declaration that the applicant believes it has prevailed, and an identification of the position of the Department that the applicant alleges was not substantially justified at the time of the initiation of the proceeding;

(3) Unless the applicant is an individual, a statement of the number of its employees on the date on which the proceeding was initiated, and a brief description of the type and purpose of its organization or business;

(4) A description of any affiliated individuals or entities, as the term "affiliate" is defined in § 13.4(f), or a statement that none exist;

(5) A statement that the applicant's net worth as of the date on which the proceeding was initiated did not exceed $1 million (if an individual) or $5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(i) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualified under such section; or

(ii) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a));

(6) A statement of the amount of fees and expenses for which an award is sought;

(7) A declaration that the applicant has not received, has not applied for, and does not intend to apply for reimbursement of the cost of items listed in the Statement of Fees and Expenses under any other program or statute; or, if the applicant has received or applied for or will receive or apply for reimbursement of those expenses under another program or statute, a statement of the amount of reimbursement received or applied for or intended to be applied for; and

(8) Any other matters the applicant wishes the Department to consider in determining whether and in what amount an award should be made.

(b) All applications must be signed by the applicant or by 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 is true and correct.

§ 13.11 Net worth exhibits.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 13.4(f) of this part) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The adjudicative officer may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the adjudicative officer in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on counsel representing the agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. If the adjudicative officer finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Department's procedures for confidential records under the Freedom of Information Act.

§ 13.12 Documentation of fees and expenses.

(a) All applications must be accompanied by full documentation of the fees and expenses, including the cost of any study, exhibit, analysis, report, test or other similar item, for which the applicant seeks reimbursement.

(b) A separate itemized statement shall be submitted for each professional firm or individual or other entity for which the applicant seeks reimbursement, indicating the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which fees were computed, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. Where the adversary adjudication includes covered proceedings (as described in § 13.3) as well as excluded proceedings, or two or more matters, each of which could have been heard separately, the fees and expenses shall be itemized separately for each proceeding or matter, and the basis for allocating expenses among the proceedings or matters shall be indicated.

(c) Each separate statement must be verified by the person, firm or other entity performing services for which reimbursement is sought, in accordance with the requirements set forth in paragraph (b) of § 13.10.

(d) The adjudicative officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

Subpart C—Procedures for Considering Applications

§ 13.21 Filing and service of pleadings.

All pleadings, including applications for an award of fees, answers, comments, and other pleadings related to the applications, shall be filed in the same manner as other pleadings in the proceeding and served on all other parties and participants, except as provided in § 13.11(b) of this part concerning confidential financial information.

§ 13.22 When an application may be filed.

(a) The applicant must file and serve its application no later than 30 calendar days after the Department's final disposition of the proceeding which makes the applicant a prevailing party.

(b) For purposes of this rule, final disposition means the later of (1) the date on which an initial decision or other recommended disposition of the merits of the proceeding by an adjudicative officer or intermediate review board becomes administratively final; (2) issuance of an order disposing of any petitions for reconsideration of the Department's final order in the proceeding; (3) if no petition for reconsideration is filed, the last date on which such a petition could have been filed; or (4) issuance of a final order or any other final resolution of a proceeding, such as a settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

(c) For purposes of this rule, an applicant has prevailed when the agency has made a final disposition favorable to the applicant with respect to any matter which could have been heard as a separate proceeding, regardless of whether it was joined with other matters for hearing.

(d) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

§ 13.23 Responsive pleadings.

(a) Within 30 calendar days after service of the application, the agency's litigating party shall file an answer either consenting to the award or explaining in detail any objections to the award requested, and identifying the facts relied on in support of its position. The adjudicative officer may for good cause grant an extension of time for filing an answer.

(b) Within 15 calendar days after service of an answer, the applicant may file a reply. 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 § 13.25.

(c) Any party to or participant in a proceeding may file comments on an application within 30 calendar days, or on an answer within 15 calendar days after service of the application or answer.

§ 13.24 Settlements.

The applicant and the agency's litigating party may agree on a proposed settlement of the award at any time prior to final action on the application. If the parties agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement. All settlements must be approved by the adjudicative officer and the head of the agency or office or his or her designee before becoming final.

§ 13.25 Further proceedings.

(a) Ordinarily, a decision on an application will be made on the basis of the hearing record and pleadings related to the application. However, at the request of either the applicant or the agency's litigating party, or on his or her own initiative, the adjudicative officer may order further proceedings, including an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(b) A request that the adjudicative officer order additional written submissions or oral testimony shall identify the information sought and shall explain why the information is necessary to decide the issues.

(c) The adjudicative officer may impose sanctions for failure to comply with his or her order to produce documents and/or present witnesses for oral examination. These sanctions may include but are not limited to a diminution of the award granted or dismissal of the application.

§ 13.26 Decisions.

The adjudicative officer shall issue an initial decision on the application as promptly as possible after the filing of the last document or conclusion of the hearing. The decision must include written findings and conclusions on the applicant's eligibility and status as a prevailing party, including a finding on the net worth of the applicant. Where the adjudicative officer has determined under § 13.11(b) that the applicant's net worth information is exempted from disclosure under the Freedom of Information Act, the finding on net worth shall be kept confidential. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, an explanation of any difference between the amount requested and the amount awarded, and whether any special circumstances make the award unjust.

§ 13.27 Agency review.

(a) The head of the agency or office, or his or her designee, shall review any award granted under this part whether or not the parties request such review, and issue a final decision. No award shall be made under this subpart without approval of the head of the agency or office or his or her designee.

(b) If either the applicant or the agency's litigating party seeks review of the ajudicative officer's decision on the fee application, it shall file and serve exceptions within 30 days after issuance of the initial decision. The head of the agency or office or his or her designee shall issue a final decision on the application as soon as possible or remand the application to the adjudicative officer for further proceedings. If no review is sought the initial decision becomes final 30 days after it is issued.

§ 13.28 Judicial review.

Judicial review of final agency decisions on awards may be obtained as provided in 5 U.S.C. 504(c)(2).

§ 13.29 Payment of award.

The notification to an applicant of a final decision that an award will be made shall contain the name and address of the appropriate Departmental finance office that will pay the award. An applicant seeking payment of an award shall submit to that finance officer a copy of the final decision granting the award, accompanied by a

statement that the applicant will not seek review of the decision in the United States courts. The Department will pay the amount awarded to the applicant within 60 days, 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 proceedings.

§ 13.30 Designation of adjudicative officer.

Upon the filing of an application pursuant to § 13.11(a), the officer who presided over the taking of evidence in the proceeding which gave rise to the application will be automatically designated as the adjudicative officer for the handling of the application.

APPENDIX A

Proceedings covered	Statutory authority	Applicable regulations
Health Care Financing Administration		
Proceedings to impose civil monetary penalties or assessments for fraudulent claims submitted under Medicare, Medicaid, and Title V.	42 U.S.C. 1320a–7a	
Proceedings to suspend or revoke licenses of clinical laboratories	42 U.S.C. 26a(e), (g)	
Proceedings provided to a fiscal intermediary before assigning or reassigning Medicare providers to a different fiscal intermediary.	42 U.S.C. 1395h	
Proceedings before the Provider Reimbursement Review Board when HCFA acts as fiscal intermediary	42 U.S.C. 1395oo	42 CFR Part 405, Subpart R.
Food and Drug Administration		
Proceedings to withdraw approval of new drug applications	21 U.S.C. 355(d), (e)	21 CFR Part 12, 21 CFR 314.200.
Proceedings to withdraw approval of new animal drug applications and medicated feed applications	21 U.S.C. 360b(d), (e), (m)	21 CFR Part 12, 21 CFR Part 514, Subpart B.
Proceedings to withdraw approval of medical device premarket approval applications.	21 U.S.C. 306e(d), (e), (g)	21 CFR Part 12.
Office of Civil Rights		
Proceedings to enforce Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin by recipients of Federal financial assistance.	42 U.S.C. 2000d–1	45 CFR 80.9.
Proceedings to enforce Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap by recipients of Federal financial assistance.	29 U.S.C. 794	45 CFR 84.61.
Proceedings to enforce the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age by recipients of Federal financial assistance.	42 U.S.C. 6101, 6104(a)	45 CFR 90.47.
Proceedings to enforce Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in certain education programs by recipients of Federal financial assistance.	20 U.S.C. 1681, 1682	45 CFR 86.71.

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Social Security Administration

45 CFR Parts 400 and 401

Refugee Resettlement Program and Cuban/Haitian Entrant Program; Cash and Medical Assistance Policies

AGENCY: Social Security Administration (SSA), HHS.

ACTION: Interim final rule.

SUMMARY: This interim final regulation amends the refugee resettlement program regulations (45 CFR Part 400) and establishes new policies on cash and medical assistance available to refugees and Cuban and Haitian entrants who are ineligible for Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), adult assistance (OAA, AB, APTD, and AABD) in the Territories and Medicaid. The Refugee Resettlement Program (RRP) provides Federal reimbursement to States for 100 percent of the costs of cash and medical assistance provided, during the first 36 months after entry into the United States, to such refugees in accordance with applicable program rules and requirements and the administrative costs of providing such assistance. Cash assistance provided to such refugees under the RRP is termed "refugee cash assistance" (RCA); and medical assistance provided to such refugees under the RRP is termed "refugee medical assistance" (RMA). This regulation permits 100 percent Federal reimbursement for RCA and RMA for an eligible refugee for the first 18 months that a refugee is in the United States. For a refugee who has been in the U.S. more than 18 months but less than 36 months, the regulation permits a State, at its option, to seek RRP reimbursement for the cost of General Assistance (GA) provided to such a refugee.

EFFECTIVE DATE: April 1, 1982. Public comments will be considered if received on or before June 10, 1982.

ADDRESS: Please submit written comments in duplicate to: Ellen McGovern, Office of Refugee Resettlement, Room 1229, Switzer Building, 330 C Street, SW., Washington, D.C. 20201. Comments will be available approximately two weeks after publication in Room 1319, 330 C Street, SW., on Monday through Friday of each week from 9:30 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Ellen McGovern, (202) 472–6510.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking (NPRM) was published on December 11, 1981, in the **Federal Register** (46 FR 60629) setting forth proposed revisions in cash and medical assistance policies for the Refugee Resettlement Program and the Cuban and Haitian Entrant Program. This interim final regulation, amending Part 400, revises policy relating to the provision of cash and medical assistance to refugees under chapter 2 of title IV of the Immigration and Nationality Act, as amended by the Refugee Act of 1980 (henceforth the Refugee Act), 8 U.S.C. 1531 *et seq.*

The new Part 401 addresses the Cuban and Haitian Entrant Program, which is authorized under title V of the Refugee Education Assistance Act of 1980, Pub. L. 96–422. Section 501(a) of the Refugee Education Assistance Act directs the President of the United States to "exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act." These authorities, which the Department has interpreted to include the administration of a program of reimbursement to States for cash and medical assistance provided to Cuban and Haitian entrants as defined by the Refugee Education Assistance Act, have been delegated to the Secretary of Health and Human Services by Executive Order 12341 (January 21, 1982).

The new regulation supports several major objectives: (1) To reduce the likelihood of unnecessary welfare dependency resulting from extended

periods of special support; (2) to reduce the degree of special treatment afforded to refugees, which results in unequal treatment among low-income populations; and (3) to reduce total refugee welfare costs while continuing to relieve States of refugee cash and medical assistance costs during a refugee's first 36 months in this country.

We believe the changes represent the best method of targeting program expenditures according to these objectives and the provisions and the purposes of the Refugee Act. The Refugee Act permits, but does not require, HHS to provide up to 100 percent Federal reimbursement for expenditures that States incur on behalf of a refugee during the first 36 months after the refugee arrives in this country. The House Report on the Act includes discussion of the Congress' intent that States and local governments "will not be unduly burdened by Federal decisions to admit refugees." H. Rep. No. 96–608, 96th Cong., 1st Sess. 6 (1979). Although the Department considered options which would have reduced both the level and duration of Federal reimbursement, the regulation continues 100 percent reimbursement for 36 months to States for cash and medical assistance costs which State and local governments are required to incur under their AFDC, SSI or adult assistance, Medicaid, and GA programs.

Also as reflected in the House Report, the Congress believed that greater benefits should be available at the beginning of the refugee's presence in the United States in order to reduce long-term welfare dependency. *Id.* at 24. Similarly, our consultations with voluntary resettlement agencies have suggested that the period immediately following entry is the time of refugees' greatest vulnerability and need. The regulation responds to this concern by concentrating on the first 18 months a refugee is in the United States. During that period, the policy provides for RCA and RMA benefits which are equal to AFDC level benefits but which are generally greater than GA benefits.

We also believe that after a refugee's transitional 18-month period, assistance should be available to the refugee on the same basis as to a non-refugee. After that period, we believe refugees ineligible for AFDC, SSI, adult assistance programs, or Medicaid should receive aid, if eligible, under programs generally available to other residents in a State or locality. Although we considered not allowing reimbursement for costs incurred to assist refugees under such programs, we opted for a policy which does not shift costs to the States and localities. Therefore, when the 18-month period of RCA and RMA ends, this regulation permits States to claim reimbursement for assistance provided to refugees under GA programs administered and funded by the State or a county, municipality, or other local government unit within the State, and for the administrative costs of providing such assistance.

Implementing the regulation at this time will enable the Department to operate the RRP within the anticipated FY 1982 budget. Section 414 of the Immigration and Nationality Act (the Act) (8 U.S.C. 1524) authorizes appropriations for the purpose of providing cash and medical assistance under section 412 of the Act (8 U.S.C. 1522). The Act does not mandate that refugees receive an established level of benefits. Section 412(a) expressly limits the Director of ORR's authority to provide assistance, including cash and medical assistance, under the Act "to the extent of available appropriations." The interim final rule will become effective April 1, 1982.

By separate **Federal Register** notice appearing elsewhere in this issue the Department is announcing today a proposed new program of flexible, targeted assistance through which a State may apply for project grants to assist its refugee/entrant population in areas where specific needs exist for supplementation of currently available resources.

Current policy

Under current RRP policy, when a refugee applies for cash and/or medical assistance, a State must first determine eligibility under the AFDC, SSI or adult assistance programs and/or Medicaid. States must comply with all regulations operative in the State regarding applications, determinations of eligibility, and furnishing of assistance under these federally aided programs. If the refugee is determined eligible, a State must provide assistance or services to that refugee under the appropriate program or programs. For refugees eligible for such programs, the RRP reimburses States for the State share of costs during a refugee's first 36 months in this country and the applicable program budget funds the Federal share.

If a refugee does not meet categorical requirements of AFDC, SSI, or adult assistance programs (i.e., family composition, the presence of children, age, disability, etc.), the State must determine eligibility for refugee cash assistance (RCA). The term "refugee cash assistance" refers specifically to cash assistance to refugees who do not meet all eligibility requirements for AFDC, SSI, or adult assistance programs, but who meet the AFDC need standard in their State of residence, after consideration of income and resources in accordance with standards and criteria set forth at 45 CFR 233.20(a)(3) through (11). RCA currently is provided during the first 36 months after a refugee enters the United States, and payments are made at the appropriate AFDC payment level in the State.

If a refugee does not meet categorical requirements of the Medicaid program, the State must determine eligibility for refugee medical assistance (RMA). The term "refugee medical assistance" refers specifically to medical assistance to refugees who do not meet all eligibility requirements for Medicaid, but who meet financial eligibility requirements as follows: In States with a medically needy program, the State applies the medically needy financial eligibility standards established for the Medicaid program in regulations at 42 CFR Part 435, Subpart I. In States without a Medicaid medically needy program, the State applies the financial need standard used in the State's AFDC program, after consideration of income and resources in accordance with standards and criteria set forth at 45 CFR 233.20(a)(3) through (11). RMA currently is provided for the refugee's first 36 months in the United States, and covers the same services which are provided under the State's Medicaid program or which are generally available to destitute residents of the State or locality through public facilities.

Changes Contained in This Regulation

In developing policy to target the anticipated appropriation as effectively and efficiently as possible, we attempted to balance such factors as comparability between the assistance available to refugees and non-refugees; reimbursement to States for the costs of providing assistance; refugee need and incentives for employment and self-sufficiency; and administrative burden on States. As indicated above, we considered several options in doing so. For example, some options would not have continued 100 percent Federal reimbursement for 36 months. Some would have shortened further the period for RCA and RMA. Some would not have permitted reimbursement of State and local GA costs. Others would have required percentage phasedown in level of benefits and increased the complexity of program administration.

We believe the new regulation represents a fair balance of essential

program concerns and provides support to refugees during the transitional period when they have the greatest need. The policy is intended to promote self-sufficiency and strengthen employment incentives by reducing the period of special assistance. The regulation shortens the period of special assistance to refugees to an initial 18-month period after which assistance would be available to refugees and non-refugees on the same basis. The policy offsets burdens to States and localities by continuing to permit Federal funding of the costs they would otherwise incur for refugees under GA programs during a refugee's second 18 months in this country. Also, by using AFDC standards instead of imposing new standards for eligibility determinations, the policy minimizes the administrative burden on States.

Under this regulation, a State must continue to determine eligibility and calculate the RCA payment according to the State's AFDC need standard and payment level during the 18-month period which begins with the month the refugee entered the United States. However, under section 400.62(c) of this regulation, a $30 plus one-third disregard shall not be applied in determining the eligibility of refugees for RCA. (The $30 plus one-third or other applicable disregards would continue to apply in determining benefits to refugees receiving AFDC.)

Eliminating the $30 plus one-third disregard in determining RCA eligibility reduces the special treatment previously afforded to refugees not eligible for AFDC, SSI, or adult assistance. A $30 plus one-third disregard is not generally applied in State or local GA programs on which non-refugees must often depend when they are ineligible for federally funded programs. While we do not believe that only general assistance should be available to non-categorically eligible refugees during their first 18 months in this country, we do not believe that all of the special disregards must apply in the RCA program to maximize effective resettlement.

With respect to RMA, this rule does not change current eligibility policy during a refugee's first 18 months in the United States, except with respect to application of the $30 plus one-third disregard as explained above.

The Regulation makes the duration of RCA and RMA coincide, and, after a refugee's first 18 months in the United States, provides for cash and medical assistance to refugees on the same basis as to other State residents.

During the refugee's second 18 month period in the United States, the State will not provide RCA or RMA. However, during the refugee's second 18 months, the State will have the option of seeking reimbursement under the RRP for financial or medical assistance provided under a State or locally administered and funded GA program to any refugee who is eligible for and receives aid under such a program. A State can seek reimbursement for all or any part of State or local GA program expenditures resulting from provision of assistance to an eligible refugee. A State could not establish a GA program which limits eligibility to refugees, but otherwise would have discretion on whether to claim allowable State or local GA program expenses from RRP funds.

The regulation also establishes the rules for federally reimbursable assistance to Cuban and Haitian entrants under the Cuban and Haitian entrant program (CHEP). Pursuant to legislative intent in the enactment of the Refugee Education Assistance Act, the rule will provide federally reimbursed cash and medical assistance and services to Cuban and Haitian entrants under the same conditions and to the same extent as such assistance and services are made available to refugees. (See comments of Congressman Fascell in the House of Representatives on September 30, 1980, 125 Cong. Rec. No 153 Part II at p. H10122.)

The regulation pertaining to CHEP also provides that procedures and requirements identical to those applicable under the Refugee Program for Federal Reimbursement of State costs, including those relating to the submission and approval of State plans, are also applicable in CHEP.

The regulation also establishes the period of time for which the Federal Government will reimburse cash and medical assistance costs incurred on behalf of a Cuban and Haitian entrant. Under CHEP, reimbursement starts from the date on which the entrant first was granted parole status under the Immigration and Nationality Act or on which an individual meeting the definition of "Cuban and Haitian entrant" set forth in the Refugee Education Assistance Act otherwise began residing in an American community. The basis for this policy is that the Cuban and Haitian entrants are not all considered to have "entered" the United States within the meaning of the Immigration and Nationality Act. Therefore, it is not possible in all cases to reimburse States for cash and medical assistance provided during a prescribed period of months after initial "entry" into the country, as is done for refugees in the Refugee program. For other Cuban and Haitian entrants it is impossible to verify their actual date of entry to the U.S. The Department has determined that, for CHEP purposes, the point in time at which a Cuban and Haitian entrant residing in an American community was first granted parole or otherwise issued documentation by the Immigration and Naturalization Service is the most reasonable and appropriate point from which to count the period of assistance authorized by Congress.

Regulatory Procedures

Executive Order 12291: We have reviewed whether these regulations meet the criteria for a "major" rule under Executive Order 12291. The budgetary savings involved will exceed $100 million this fiscal year. However, these regulations are not major because the reduction results not from these regulations but from the budgetary process. That is, regardless of what regulations are in place, the continuing resolution governing obligations under these programs provides for only $669.7 million in FY 1982. These regulations implement this reduced program level with minimal adverse impact and as equitably as possible. Notwithstanding this conclusion, we believe that the discussion of comments which follows largely accomplishes the analysis which might have been required if this were a major rule.

Regulatory Flexibility Act: We certify that these regulations will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act because the regulations affect individuals only.

Paperwork Reduction Act: ORR is proposing modifications in its financial estimate and report forms. These modifications will be submitted to OMB for approval and will not be applicable until such approval is obtained. Certain reporting and recordkeeping requirements for the Cuban/Haitian Entrant Program under section 401.12(b) require OMB approval and will not be applicable until such approval is obtained.

Discussion of Comments

We received 216 letters, signed by 353 persons, from State and local government agencies, national and local voluntary refugee resettlement agencies, service providers, refugee advisory boards, coalitions and forums concerned with refugee resettlement, refugee mutal assistance associations, refugees, and other individuals.

The following sections address specific points commenters raised:

Effect on States

Comment: A number of commentators opposed reducing special refugee cash assistance (RCA) and special refugee medical assistance (RMA) to 18 months. Some stated that the new rules would undercut Federal-State partnership in refugee resettlement and would represent a retreat from Federal responsibility and commitment to the States relating to refugee resettlement.

Response: The Department does not regard the new RCA and RMA policies to represent or imply a retreat from Federal recognition of responsibility in the area of refugee resettlement or from long-standing commitments to States and concepts of Federal-State partnership in dealing with refugee-related problems. On the contrary, the Department's specific policy decisions reflected in these regulations were very much influenced by a recognition of continued responsibility to the States. It is for this reason that the rules continue to provide for 100% reimbursement for State cash and medical assistance costs during a full 36 month period with respect to refugees and entrants who qualify for benefits under jointly administered Federal/State programs such as AFDC and Medicaid. Moreover, the rules provide, at State option, for the continued Federal reimbursement of State assistance costs associated with a refugee under a State or locally administered general assistance program after that refugee's first 18 months in the United States. Thus, the rules continue to reflect a Federal willingness to accept responsibility for costs of assistance actually incurred by States on behalf of refugees during their first three years in this country. The Federal reimbursement to States which is discontinued under these rules after an 18 month period only relates to assistance costs which the States are under no legal obligation to incur in the absence of coverage under the federally funded RCA and RMA programs.

Comment: Many commenters believe that refugees without income would become a burden on States and localities, thereby shifting substantial costs from the Federal government to the States and localities.

Response: The new policy would continue 100 percent reimbursement for 36 months for cash and medical assistance costs which States and local governments are required to incur under their AFDC, SSI or adult assistance, Medicaid and GA programs. Although the Department considered options which would have reduced both the level and duration of Federal reimbursement, the new policy would do neither. Thus, it does not transfer costs to the States or localities. We believe that the changes we have adopted are essential to reduce the likelihood of unnecessary welfare dependency among refugees resulting from extended periods of special support.

Comment: Many commenters remarked that the new policy would cause refugee migration to States and localities with more generous cash and medical assistance programs and higher payment levels.

Response: The Department's experience in administering the refugee and AFDC programs is that recipients do not change locations solely because of benefit levels. Major impacts predicted as a result of the statutory 36-month limit, which became effective in April 1981, did not materialize.

Comment: Some commenters recommended an impact aid program or increased social services for States and local governments to offset the effect of the proposed policy.

Response: We recognize that in certain geographic areas where refugees and entrants are highly concentrated, there may be special need for supplementation of currently available resources. Therefore, the Department has established a special project grant program to provide additional services to refugees and entrants in areas where resources have been unusually strained. Although funds for such projects currently are only available in the entrant program, we will fund such projects for refugees in the future should funds become available. Funds for these projects are not intended to replace cash and medical assistance funds, but rather are intended for projects which promote early self-sufficiency or meet urgent needs of refugees and entrants. Regular social services funds also are intended to assist the refugee to become self-sufficient and are not to be used for cash and medical assistance.

Duration of Assistance

Comment: The majority of responses opposing the 18-month period of assistance commented that the period is too short to permit refugees to attain self-sufficiency and to complete employability plans.

Response: Overall experience with the refugee program does not support the contention that more than 18 months are required before a refugee can be expected to become employed. Employment does not preclude continuing training or education during non-work hours.

Comment: Some commenters believe that the 18-month period for assistance will provide incentives for employment; others disagreed. A few respondents commented that there is no evidence that reducing the length of assistance would strengthen employment incentives.

Response: Based on experience with the 36-month statutory limitation, which went into effect in April 1981, we believe that a time limitation on assistance does provide an employment incentive. In fact, one commenter noted that the refugee clientele of an employment training project perceives that it is their "right" to receive 36 months of assistance and will not take jobs or participate in English language or job training classes, while on assistance.

Comment: Some commenters felt that terminating the 36-month period of RCA and RMA would make it more difficult to obtain sponsorships for refugees and establish voluntary networks to assist refugees.

Response: The 18-month policy would continue to provide cash and medical assistance during a refugee's most critical initial period in the United States, providing a transition period adequate for additional English training and for identifying and treating most pressing health problems. Many resettlement workers have advised us that they believe a shorter eligibility period will be beneficial to the voluntary resettlement agencies, sponsors, and refugees by providing an earlier incentive for employment and self-support.

Comment: Several commenters proposed alternative durations of assistance, ranging from 12 to 36 months (e.g. 12, 15, 24, 27 or 36 months).

Response: No given period of assistance will be optimal for all refugees. Based on our consultation with the resettlement agencies, we concluded that 18-months generally provides the most reasonable period of special cash and medical assistance eligibility for most refugees.

Comment: A few commenters recommended different durations of eligibility depending on family characteristics. (e.g., aid to families for 36 months; single adults for 6 months; no assistance to single adults; etc.) or an ethnic group (e.g., special assistance for Hmong).

Response: Although only a few commenters recommended different periods of eligibility based on family characteristics, their recommendations varied as to what characteristics merited longer or shorter periods of eligibility. Sufficient data do not exist which would support unequal eligibility

periods for RCA and RMA based on such characteristics.

Comment: Several commenters raised concern about the duration of RMA, contending that, under many State public assistance programs, medical assistance would not be available to refugees.

Response: Since most health problems specific to refugees can be met during the first 18 months, the Department does not believe it is appropriate to provide refugees with subsequent special eligibility for medical assistance that is not available to U.S. citizens and other permanent residents of the United States.

Comment: Several commenters opposed terminating RMA after 18 months, contending that the availability of such assistance enables refugees who are unable to afford medical insurance to take jobs without fear of losing medical assistance coverage.

Response: Medical assistance coverage and the availability of public health services vary by State and locality. Many low-income refugees will continue to be eligible for medical assistance under regular programs after 18 months. We do not believe that a continued special program of assistance for refugees, as compared with citizens in similar circumstances, is appropriate after the initial transition period.

Comment: One commenter suggested that the 18 month period of RCA and RMA be counted from the date a refugee is determined eligible for assistance instead of 18 months from the refugee's date of arrival.

Response: The special eligibility of refugees for cash and medical assistance is intended to help them during their initial period of adjustment to U.S. society. There is no rationale for according refugees special assistance of a type unavailable to citizens in similar circumstances when refugees may reasonably be expected to have had adequate time to adjust and be assimilated into American society.

Comment: Some commenters recommended that the period for RMA be longer than the period for RCA.

Response: We are not aware of any substantial data which support the need for, or justify, a longer period of special eligibility for medical assistance than for cash assistance. In addition, as noted previously, refugees will continue to be eligible on the same basis as non-refugees for publicly-funded medical assistance and health care after the 18-month period.

Comment: A few commenters requested clarification on whether the 18-month period of RCA and RMA applies to unaccompanied minors.

Response: The regulations of not affect the duration of assistance to unaccompanied minors. Section 412(d)(2) of the Immigration and Nationality Act provides that in the case of a refugee child who is unaccompanied by a parent or other close relative, assistance may be provided until the month after the child attains 18 years of age (or such higher age as provided in the State's child welfare services plan). Such assistance is not limited to the minor's first thirty-six months in this country. Unaccompanied minors may be affected by the new RCA and RMA rules only in those cases where minors reach the age of majority within less than a 36-month period following their initial entry into the United States. In such cases, individuals would be affected by these rules only at the point in time that they are no longer minors under the laws of their States of residence.

Payment Levels

Comment: In some instances, commenters recommended payment levels lower than the AFDC level during the 18 month period of cash assistance.

Response: The Department believes that in general, refugees do have special problems and needs during their initial transitional period of months in this country. In order to facilitate an effective adjustment to their new country, the Department believes that a level of assistance adequate to fulfill refugees basic needs should be made available to them during an initial period in which they can seek employment and obtain skills necessary to self-support. Because a State's AFDC need level represents a State estimate of the amount of money needed to cover an individual's basic costs of food, clothing, and shelter in that State, the Department believes that this is a reasonable and appropriate assistance payment standard to adopt in the special refugee cash assistance program. A lower level of assistance during a refugee's initial months of residence in the United States might leave him without the means of obtaining basic needs during a period when he cannot reasonably be assumed to have had adequate time to establish a means of self-support.

In addition, the use of AFDC payment levels is advantageous from an administrative standpoint, since eligibility determination procedures and payment structures already in place in the AFDC program can be utilized in the Refugee Program.

Comment: One commenter recommended that a uniform, nation-wide payment level be established as a disincentive to secondary migration to States which have higher AFDC payment levels.

Response: There is no evidence that the varying levels of AFDC payments in the States is related to patterns of secondary migration among refugees. Also, as explained in the response to the comment above, one rationale behind the use of AFDC payment levels in the refugee cash assistance program is the fact that these levels are related to the basic costs of living, which vary significantly from State to State. A uniform payment level would undercut this rationale. Establishment of a uniform payment level could result in payment levels to refugees being higher in some States than assistance payments to the welfare recipients among the State's general population. We think this type of situation could foster feelings among low-income groups that would hamper the refugee's adjustment into American communities.

Comment: Two commenters proposed that a household concept be adopted, under which all persons in a household would be considered as a single assistance case, resulting in a lower payment than if a household were divided into separate assistance units.

Response: Use of a household concept for determination of RCA eligibility and amount of assistance is permissible under current policy and will continue to be permissible under the 18-month policy. A State may adopt the family unit concept for RCA if it wishes to do so.

General Assistance

Comment: As an alternative to Federal reimbursement of GA, one commenter recommended providing block grants to States for the purpose of providing assistance to refugees during their second 18-month period in the United States, and permitting States to determine funding levels for cash and medical assistance to refugees.

Response: As is indicated in the Department's responses to many of the comments, the primary purpose of providing reimbursement of State GA costs during a refugee's second 18 month period in the country is to continue to assume at the Federal level the financial burden of assistance provided by States to refugees during a full 36 month period following their entry into the United States. The Department also believes that an 18 month period of special assistance should be an adequate time period to permit a refugee who is neither aged, blind, disabled, a minor, or responsible for dependent children to substantially adjust to life in America and establish a means of self-support.

After this initial 18 month period, the Department believes that a refugee who is not disadvantaged by age, physical handicaps or responsibilities for minor dependents should be expected to live in the community with no more public assistance than the State considers it appropriate to afford other State citizens and residents in similar circumstances.

For these reasons, the policy of providing optional Federal reimbursement of State GA costs incurred during a refugee's second 18 months in the United States was determined to be more consistent with the Department's current goals and views relative to refugee resettlement than a block-grant approach to funding of State assistance to refugees. However, the use of block grants in the Refugee Resettlement Program is an option that may well be examined and considered at a future date, if such a funding approach seems appropriate in the light of relevant facts and legal authorities.

Comment: Some commenters pointed out that aid would not be available to refugees in States and localities where GA does not exist or where the program is highly restrictive.

Response: After the initial 18-month transition when refugees are most in need, we believe that refugees should receive assistance on the same basis as other groups. The problem identified in the comment is one which affects indigent citizens as well as refugees in certain States. Thus, it is a problem which needs to be addressed through measures at various levels of government in a context broader than the refugee program.

Comment: Several respondents commented that counties will not want to seek reimbursement for GA provided to refugees because of administrative burden and that States will have difficulty verifying local claims for GA reimbursement.

Response: We have revised the regulation to make clear that reimbursement of GA costs includes the administrative costs of providing such assistance to refugees. Also, in order to provide maximum flexibility, States could, but would not be required, to claim reimbursement for State or local GA costs.

Comment: Instead of providing aid through GA programs during the refugee's second 18-month period, some commenters suggested providing RCA at a reduced payment level.

Response: Earlier consultations with States indicated strenuous objection to such a provision because of the administrative complexity. We believe that providing RCA at a reduced payment level would create greater administrative burdens for the States than the policy implemented in these rules. We believe that 18 months of RCA eligibility and funding for GA during a refugee's second 18 months will encourage early employment, avoid prolonged dependence on cash assistance, and avoid placing an undue administrative burden on the States.

Reimbursement

Comment: One commenter recommended that reimbursement to States be limited to 75% of RCA cost during a refugee's first 18 months and 75% of GA costs during the second 18 months.

Response: We considered this and other options which would reduce the level of Federal reimbursement. We rejected all such options because they would have the effect of transferring refugee assistance costs to the States and localities. The policy we selected offsets burdens to States and localities by continuing to permit Federal funding of the costs they would otherwise incur for assisting refugees during their first 36 months in this country.

Comment: In order to reduce administrative costs, some commenters recommended that GA to refugees not be reimbursed.

Response: Several of the options we considered in developing the assistance policy changes would not have provided reimbursement for State and local GA costs. Consistent with our view that the Federal government should assume the financial burden of costs to States and localities during the initial 36 month period of assistance to refugees, we decided against recommendations not to permit reimbursement for GA.

Comment: Several commenters recommended that the regulations specify whether GA administrative costs would be reimbursable, and, if so, within what timeframe.

Response: We have revised the regulation to clarify that reimbursement for assistance provided to refugees under GA programs includes reimbursement for the administrative costs of providing such assistance.

Comment: A few commenters recommended that the Federal Government reimburse localities directly instead of through the States.

Response: The refugee program has since its inception reimbursed all State and local cash and medical assistance costs through a single grant made to each State or territory.

We do not believe that this practice should be altered by the new regulations. While the new rule allows the Federal government to reimburse local general assistance which is often administered by counties, we believe States are in the best position to coordinate and consolidate county reimbursement claims.

Moreover, the Office of Refugee Resettlement does not have staff resources to provide direct grants in a timely manner to each of the possible hundreds of local jurisdictions which administer the general assistance programs.

State costs associated with consolidating these claims and distributing Federal funds to the counties may be claimed as a reimbursable expense under the Refugee Act of 1980.

Conditions of Eligibility

Comment: A few commenters suggested denying assistance to any refugee who is not enrolled in an English language or job training class or who is not making progress in such a class. Others recommended requiring one year of English training as a condition of receiving assistance.

Response: Existing policy provides that an employable refugee is required to accept appropriate employment or training as a condition for receipt of assistance. We do not believe it is essential to require participation in English language classes as a condition of eligibility. Not all refugees require such training. Also, we have found that those who do generally make use of available programs.

Comment: Some commenters suggested strengthening job search and job acceptance requirements.

Response: We believe that this recommendation has merit and are considering this question in connection with the development of overall regulations for the refugee program.

$30 Plus 1/3 Disregard

Comment: Many commenters urged retaining a $30 plus 1/3 disregard to provide a work incentive and to provide uniformity between RCA and AFDC.

Response: We do not believe it is essential to make the RCA and AFDC programs uniform. The $30 plus 1/3 disregard is authorized in statute specifically for the AFDC program. We gave careful consideration to continuing application of the $30 plus 1/3 disregard in the RCA program, but concluded that not applying such a disregard would not necessarily result in reduced work incentives among refugees. Assistance should be targeted to those most in need and not be viewed as a supplement to earnings. Also, we do not believe that all of the special AFDC disregards must

apply in the RCA program to maximize effective resettlement.

Comment: Instead of eliminating the $30 plus 1/3 disregard, one commenter recommended that RCA be limited to cases where the refugee is employed less than 100 hours per month, as in the AFDC-Unemployed Parent program.

Response: The 100 hour rule is another provision authorized in statute specifically for the AFDC program. As indicated above, we do not believe that the same provisions must apply in RCA and AFDC.

Effect on Refugees

Comment: A few commenters believed that the shorter duration of assistance to refugees not eligible for AFDC on the basis of family composition would cause such families to break up so they could qualify for AFDC.

Response: While some believe the policy could cause refugee households to break up, others believe the policy could lead to household consolidations to share resources. There is no research evidence to suggest that the shorter duration of assistance would alter the composition of refugee families in any way.

Comment: A few commenters said that the new policy would increase physical and mental illness, and suicide among refugees. Others opposed the shorter duration of Medicaid-level assistance, believing it would affect the health status of refugees who have chronic or severe health problems.

Response: Most of the health problems specific to refugees can be met during their first 18 months in this country. There is no evidence to show that after 18 months in the U.S. refugees have more severe health problems than non-refugees. Refugees who are eligible for SSI and AFDC continue to receive Medicaid benefits after 18 months. The medical assistance that States or localities provide to refugees under GA programs is reimbursable during a refugee's second 18 months in this country.

Assistance to Cuban and Haitian Entrants

The new regulations continue in effect the policy of reimbursing the provision of cash and medical assistance to Cuban and Haitian entrants at the same levels and to the same extent that Federal reimbursement is provided for assistance to refugees. Several commenters argued in favor of establishing different cash and medical assistance reimbursement policies in the entrant and refugee programs. Specifically, several commenters suggested that the proposed changes relating to cash and medical assistance for individuals not meeting eligibility requirements of Social Security Act programs for cash and medical assistance to the needy should not be made applicable to the entrant program.

Although the Department is sensitive to the fact that some of the specific circumstances and needs of Cuban and Haitian entrants may differ from those of refugees, we interpret current law to require implementation of the same cash and medical assistance policies in the refugee and entrant programs. Section 501(a) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522, note) charges the responsible Federal agency to exercise "identical" authorities with respect to entrants as are exercised in providing cash and medical assistance to refugees under the Refugee Act of 1980. The Department has interpreted this charge in light of the legislative history of section 501(a), particularly analysis of the provision by one of its authors, Congressman Fascell.

On September 30, 1980, on the floor of the House of Representatives, Congressman Fascell stated with reference to § 501(a) that,

> " * * * it is the intent of Congress that services provided pursuant to this section shall be provided to Cuban and Haitian entrants by the same agencies *under the same conditions, and to the same extent,* that assistance is provided to persons determined to be refugees in accordance with the terms of the Refugee Act of 1980." (emphasis added) 125 Cong. Rec. No. 153 Part II at p. H10122 (96th Cong. 2nd Sess, September 30, 1980)."

Thus, the Department believes that it is directly following the intent of the Congress in implementing the same cash and medical assistance rules in both the entrant and refugee programs.

Concerns raised by commenters regarding the specific effects of application of the new cash and medical assistance rules to the Cuban and Haitian entrant program are discussed below:

Comment: Some comments received expressed apprehension that the sudden termination of assistance to entrants could have disruptive effects on communities with high concentrations of entrants.

Response: It is unavoidable that the effects of changes in Federal policy relating to assistance for Cuban and Haitian entrants will be felt most keenly in communities with higher concentrations of entrants. However, as indicated by the explanation of Departmental reasoning as set forth in the NPRM, the specific changes in policy upon which by the Department decided are designed to cause as little disruption as possible and at the same time, stay within budgetary limitations and promote desirable programmatic goals. For these reasons, the new rules reduce the period of federally-reimbursed cash and medical assistance primarily for entrants who, if they were American citizens, would not qualify for cash or medical benefits under existing Federal or State programs. Thus, in general, the circumstances of entrants whose receipt of assistance may be terminated by these rules are comparable to the circumstances of American citizens who, in the judgment of Federal and State legislators as reflected in existing social welfare legislation, are expected to be capable of sustaining themselves without public assistance. Because of their acknowledged special needs upon coming to the United States, however, entrants and refugees are afforded a significant period of special assistance, i.e., 18 months, even if their circumstances would fail to qualify a citizen for any publicly funded aid.

Moreover, the Department hopes that projects designed to minimize possible disruptive effects on communities with high entrant concentrations will be established under the proposed new program of targeted assistance grants, of which notice is given today in the **Federal Register.**

Comment: Some commenters expressed concern that the new cash and medical assistance rules would have a greater effect on entrants than refugees because some entrants are ineligible for AFDC, SSI or Medicaid due to their immigration status.

Response: Only a small percentage of the entrants whose period of receipt of federally funded cash and medical assistance will be reduced upon implementation of the new rules are over sixty five years of age, blind, disabled, or members of families with dependant children in the United States. Therefore, the Department does not expect that these new rules will have significantly greater effect upon the entrant population than the refugee population as a result of differences in immigration status within the Cuban and Haitian entrant groups.

Comment: One commenter asserted that the new assistance policies would result in serious cost increases for public hospitals because of the unavailability of Federal reimbursement for costs of care to indigent entrants.

Response: Unavoidably, there may be some needs of Cuban and Haitian entrants that cannot be provided within the framework of federally funded cash and medical assistance programs. The

same is true, of course, in relation to any other financially or otherwise disadvantaged group in the United States. Necessary medical care for entrants not covered under the cash and medical assistance program implemented by these regulations, however, would be a permissible purpose for which project grant funds awarded under the proposed new targeted assistance program, announced today in the **Federal Register**, could be used. Thus, the Department hopes that potential problems of the type anticipated in this comment can be minimized through the effective use of project grant funds.

Comment: Some commenters predicted that the new assistance policies would hamper efforts to place entrants because some States would be unwilling to accept within their borders entrants no longer eligible for federally funded cash and medical assistance.

Response: The Department does not think that the new rules will have a substantial effect upon the success of placement and resettlement efforts. First, we are aware of no legally sanctioned mechanism through which a State could "refuse to accept" an entrant's placement or resettlement in that State based upon the unavailability of federally funded assistance. In addition, there should be little motivation for such action on the part of a State, since the regulations continue to provide for Federal reimbursement during a full 36-month period for assistance costs which a State is legally obligated to incur on behalf of a refugee or entrant. Finally, we point out that the regulations specifically provide for the 18-month period of special refugee assistance to run from the date of an entrant's parole rather than his physical entry into the United States. Therefore, most entrant placements will occur at a time when the entrant has at least an 18-month transition period of fully federally funded cash and medical assistance before him, and during which he may become adjusted to American society and establish a basis for self-support.

Comment: Some commenters suggested that an "impact aid" program should be put into effect prior to implementation of the new rules.

Response: Although the Department does not plan to implement an "impact-aid" program as such, the proposed new program of targeted assistance project grants, described in the notice published today in the **Federal Register**, is expected to serve a number of similar purposes. The Department is acting to put the new grant program into effect as soon as possible within constraints resulting from the limited availability of funds, the desirability of affording the public an opportunity to comment on the new program, and statutory requirements relating to applications for grants under the Refugee Act of 1980 and the Refugee Education Assistance Act of 1980.

Comment: One comment stated that the proposed rules were unclear as to whether an arrival date before October 10, 1980 is still of significance in determining an entrant's eligibility under the AFDC program.

Response: The NPRM did not address this issue because the subject matter of the proposed rules did not include eligibility criteria applicable in determination of eligibility for the AFDC program. The date of October 10, 1980 *per se* is of no significance to determinations of AFDC eligibility. However, the immigration status that has generally been accorded by the Immigration and Naturalization Service (INS) to entrants who were known by the INS to have arrived physically in this country on or before that date is of significance to AFDC eligibility, as well as to determinations of eligibility under the Medicaid and SSI programs. That status, i.e., "Cuban/Haitian entrant (status pending)" has been characterized by the INS in a manner indicating that aliens with this status are persons "permanently residing in the United States under color of law" within the meaning of AFDC regulations appearing at 45 CFR 233.50. Accordingly, entrants with this status may qualify for AFDC benefits, while the different immigration status accorded other entrants fails to establish that their residence in the United States is of a sufficiently "permanent" character to permit AFDC eligibility under existing regulatory standards. Because a similar eligibility standard relating to permanent residence is applicable in the SSI and Medicaid programs (see section 1614(a)(1)(B)(ii) of the Social Security Act, and Medicaid regulations at 42 CFR 435.402), the INS status that has been accorded most pre-October 11 entrant arrivals is also of significance in those programs.

Comment: One commenter indicated concern that the provision of § 401.12 of the new rules would require that each and every innovative program established for refugees be established for entrants as well.

Response: Section 401.12 is not intended to require precise duplication in the entrant program of each and every measure taken or project established to assist refugees. As is explained above, however, the Department interprets section 501(a) of the Refugee Education Assistance Act of 1980 to require that federally funded cash and medical assistance be provided to entrants to the same extent, in terms of the duration and levels of assistance, as such assistance is provided to refugees, and based upon essentially the same standards for determination of eligibility as are applied in the Refugee Program.

Implementation Date

Comments: Many commenters advised against implementing the proposed policy on February 1, 1982, most frequently citing operational problems and advance notice requirements as the basis for opposition.

Response: We recognized the operational difficulties which could have been inherent in a February 1, 1982 implementation date. After careful consideration, we decided to set an effective date of April 1, 1982 to permit more administrative lead time to ensure proper implementation. In view of the limitations in the FY 1982 budget for the refugee and entrant programs, we are unable to delay the effective date beyond April 1, 1982.

Other Comments

Comment: A few comments were received expressing the view that the new rules violate the legislative intent in the Refugee Act of 1980 that refugees be afforded "special treatment." Some of these comments specifically questioned the legitimacy of the Department's view that it is a desirable goal in the refugee resettlement program to promote comparable treatment of refugees and other low-income groups.

Response: The Department does not assert, nor do the new rules reflect a view, that refugees should be treated in precisely the same manner as citizens with respect to federally funded assistance. The Department agrees that the Refugee Act of 1980 represents a legislative recognition of the fact that refugees have special needs and are likely to require some special assistance in order to effectively resettle in a new country. Accordingly, these new rules continue to provide for a significant period of federally funded cash and medical assistance to refugees, even in the cases of refugees whose circumstances would not satisfy eligibility requirements of assistance programs generally available to citizens and residents of the United States. Moreover, the program administered for the benefit of refugees under the Refugee Act of 1980 continues to provide for numerous types of special resettlement services for refugees, including social services and English

language training. At the same time, the Department believes that community acceptance is an important aspect of effective resettlement of refugees in this country. Resentment against refugees on the part of other low-income groups could delay this acceptance. Thus, particularly in a time when publicly funded benefits received by American citizens are being reduced, we believe that widely disparate treatment of refugees and other United States residents under federally funded assistance programs would be counter-productive to the goal of refugee resettlement. For this reason, the Department has made a major effort in these rules to strike an appropriate balance between providing needed "special treatment" for refugees and avoiding refugee assistance policies that could be perceived as unfair or inequitable in relation to the federally funded assistance made available to American citizens or other United States residents with low income.

Comment: A few commenters stated that they felt Congress should have been consulted prior to implementation of the new policies.

Response: Although a formal consultation with Congress was not conducted in regard to the proposed cash and medical assistance policy changes, several interested members of the Congress were informed of the proposed policies prior to their publication in the **Federal Register** as an NPRM. Moreover, contact and dialogue between the Department and members of the Congress pertaining to the new rules have been extensive during the comment period following publication of the NPRM. The Department has received approximately sixty letters from members of the Congress regarding these rules, and has carefully considered their comments and views prior to final publication and implementation of these interim final regulations.

Comment: One commenter proposed that HHS seek a supplemental appropriation instead of implementing the policy proposed in the NPRM.

Response: The Department has long been considering ways to make the assistance available to refugees more comparable to the aid available to other low-income groups. The FY 1982 budget which the Administration submitted to the Congress assumed that HHS would implement assistance policy modifications for those refugees and entrants who are ineligible for AFDC, SSI, adult assistance or Medicaid.

We strongly believe that program changes are essential to reduce the likelihood of unnecessary welfare dependency resulting from extended periods of special support for refugees and entrants. We also want to reduce the degree of special treatment for refugees and entrants, which results in unequal treatment among low-income populations. Thus we have not chosen to seek a supplemental appropriation to continue current policy.

The policy in this interim final rule represents a fair balance of program concerns and provides support to refugees and entrants during the transitional period when they have the greatest need. Because the Refugee Act expressly limits our authority to provide assistance to the extent of available appropriations, we have scheduled the effective date accordingly.

Several commenters addressed their concerns to the refugee programs in general rather than specifically the new cash and medical assistance policy. We have not discussed those comments in the preamble since they do not relate directly to cash and medical assistance. However, we are studying these comments and will consider adopting or testing those with merit.

PART 400—REFUGEE RESETTLEMENT PROGRAM

45 CFR Part 400 is amended as follows:

(1) Sections 400.12 through 400.61 are added and reserved.

§ 400.12–400.61 [Reserved]

(2) A new § 400.62 is added to read as follows:

§ 400.62 Refugee cash and medical assistance: Need standards; consideration of income and resources; payment levels, and duration of eligibility.

(a) *Definitions.* For purposes of this section—

(1) "Filing unit" means an individual or individuals whose needs are taken into account in determining eligibility for, and the amount of, assistance for which Federal reimbursement is claimed under this part.

(2) "General Assistance program" means a financial and/or medical assistance program existing in a State or local jurisdiction and which: (i) Is funded entirely by State and/or local funds; (ii) is generally available to needy persons residing in the State or locality who meet specified income and resource requirements; (iii) consists of one-time, emergency, or ongoing assistance intended to meet basic needs of recipients, such as for food, clothing, shelter, medical care or other essentials of living.

(3) "Refugee cash assistance" means cash assistance provided under section 412(e) of the Act to refugees who are ineligible for AFDC, the adult assistance programs (OAA, AB, APTD, AABD), or SSI, and who have resided in the United States for less than an 18-month period from their initial entry to the country.

(4) "Refugee medical assistance" means medical assistance provided under section 412(e) of the Act to refugees who are ineligible for Medicaid benefits and who have resided in the United States for less than an 18-month period following their initial entry to the country.

(b) *Need standards.* In determining need for refugee cash assistance, a State must use the State's AFDC need standards established under regulations at § 233.20(a) (1) and (2) of this title.

(c) *Consideration of income and resources.* In considering the income and resources of applicants for and recipients of refugee cash assistance, the State agency must apply standards and criteria identical to those provided for in regulations at § 233.20(a)(3) through (11) of this title for considering income and resources of AFDC applicants and recipients, except that the State agency shall not apply an earned income disregard of $30 plus one-third of the remainder of the earnings as is provided for in § 233.20(a)(11)(ii) of this title.

(d) *Payment levels.* In determining the amount of the refugee cash assistance payment to an eligible refugee who meets the need standards in paragraph (b) of this section, and applying the consideration of income and resources in paragraph (c) of this section, a State must pay 100 percent of the payment level which would be appropriate for an eligible filing unit of the same size under the AFDC program.

(e) *Duration of eligibility.* Refugee cash assistance and refugee medical assistance are not available to refugees after the conclusion of the 18-month period following their initial entry into the United States.

(f) *Reimbursement to States.* (1) During the 36-month period beginning with the month a refugee entered the United States, Federal financial participation is available to States, subject to availability of funds, for—

(i) The non-Federal share of assistance provided to a refugee who is determined eligible for AFDC, adult assistance programs, or Medicaid; and

(ii) A State supplementary payment provided by the State to a refugee who is determined eligible for SSI.

(iii) The identifiable and reasonable non-Federal administrative costs of providing the assistance described in paragraph (f)(1)(i) and (ii) of this section.

(2) During the 18-month period beginning with the month a refugee

entered the United States, reimbursement is available to States, subject to availability of funds, for refugee cash assistance and refugee medical assistance provided to a refugee who is determined eligible under this section, and for the identifiable and reasonable administrative costs of providing such refugee cash and refugee medical assistance.

(e) During the second 18-month period a refugee is in the United States, Federal financial participation is available to States, subject to availability of funds, for financial and/or medical assistance under a State or local General Assistance program provided to a refugee who is determined eligible for the General Assistance program and for the identifiable and reasonable administrative costs of providing such financial and/or medical assistance.

(Secs. 412(a)(9) and 412(e), Immigration and Nationality Act (8 U.S.C. 1522(a)(9) and 1522(e))

45 CFR Chapter IV is amended by adding a new Part 401 to read as follows:

PART 401—CUBAN/HAITIAN ENTRANT PROGRAM

Sec.
401.1 [Reserved]
401.2 Definitions.
401.3–401.11 [Reserved]
401.12 Cuban and Haitian entrant cash and medical assistance.

Authority: Sec. 501(a), Pub. L. 96–422, 94 Stat. 1810 (8 U.S.C. 1522 note); Executive Order 12341 (January 21, 1982).

(1) Section 401.1 is reserved.

§ 401.1 [Reserved]

(2) A new § 401.2 is added to read as follows:

§ 401.2 Definitions.

For purposes of this Part a "Cuban and Haitian entrant" or "entrant" is defined as:

(a) Any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(b) Any other national of Cuba or Haiti

(1) Who—

(i) Was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) Is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or

(iii) Has an application for asylum pending with the Immigration and Naturalization Service; and

(2) With respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered.

(3) Sections 401.3 through 401.11 are reserved and § 401.12 is added.

§ 401.3–401.11 [Reserved]

§ 401.12 Cuban and Haitian entrant cash and medical assistance.

Except as may be otherwise provided in this section, cash and medical assistance shall be provided to Cuban and Haitian entrants by the same agencies, under the same conditions, and to the same extent as such assistance is provided to refugees under Part 400 of this title.

(a) For purposes of determining the eligibility of Cuban and Haitian entrants for cash and medical assistance under this section and the amount of assistance for which they are eligible under this section, the same standards and critieria shall be applied as are applied in the determination of eligibility for an amount of cash and medical assistance for refugees under § 400.62 of this title.

(b) Federal reimbursement will be provided to States for the costs of providing cash and medical assistance (and related administrative costs) to Cuban and Haitian entrants according to procedures and requirements, including procedures and requirements relating to the submission and approval of a State plan, identical to those applicable to the Refugee Program and set forth in Part 400 of this title.

(c) The number of months during which an entrant may be eligible for cash and medical assistance for which Federal reimbursement is available under this section shall be counted starting with the first month in which an individual meeting the definition of a Cuban and Haitian entrant in § 401.2 was first issued documentation by the Immigration and Naturalization Service indicating:

(1) That the entrant has been granted parole by the Attorney General under the Immigration and Nationality Act,

(2) That the entrant is in a voluntary departure status, or

(3) That the entrant's residence in a United States community is known to the Immigration and Naturalization Service.

The amendments are to be issued under the authority contained in § 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)).

(Catalog of Federal Domestic Assistance Programs, Nos. 13.814 and 13.817)

Dated: February 4, 1982.

John A. Svahn,

Commissioner of the Social Security Administration.

Approved: February 8, 1982.

Richard S. Schweiker,

Secretary of the Department of Health and Human Services.

[FR Doc. 82-6806 Filed 3-11-82; 8:45 am]

BILLING CODE 4190-11-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

Czechoslovakian Claims Program

45 CFR Part 500

AGENCY: Foreign Claims Settlement Commission.

ACTION: Amendment of regulations.

SUMMARY: Pursuant to Public Law 97–127, the "Czechoslovakian Claims Settlement Act of 1981", approved December 29, 1981, the Foreign Claims Settlement Commission is authorized to receive and determine claims against the Government of Czechoslovakia for losses resulting from the nationalization or other taking of property owned by United States nationals. The administration of this new program, known as the Second Czechoslovakian Claims Program, requires certain changes in the Regulations of the Foreign Claims Settlement Commission to bring this new class of claims within their ambit.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: David H. Rogers, General Counsel, (Acting), Foreign Claims Settlement Commission, Room 400, 1111 20th Street, N.W., Washington, DC 20579, Phone (202) 653–5883.

PART 500—APPEARANCE AND PRACTICE BEFORE THE COMMISSION

1. Section 500.3(c) of the Commission's regulations is hereby amended by inserting after: ". . . of the International Claims Settlement Act . . ." the words "or under Public Law 97–127, the Czechoslovakian Claims Settlement Act of 1981, approved December 29, 1981," so that paragraph (c) is revised to read as follows:

§ 500.3 Fees.

* * * * *

(c) The total remunerataion on account of services rendered or to be rendered to or on behalf of any claimant in connection with any claim falling

within Title I, Title IV, Title VI, or Title VII of the International Claims Settlement Act or under Public Law 97–127, the Czechoslovakian Claims Settlement Act of 1981, approved December 29, 1981, shall not exceed ten per centum of the total amount paid on account of such claim.

PART 531—FILING OF CLAIMS AND PROCEDURES THEREFOR

(2) Section 531.1 of the Commission's regulations is hereby amended by adding paragraph (k) which reads as follows:

§ 531.1 Time for filing.

* * * * *

(k) Claims under Section 5(a) of Public Law 97–127, the Czechoslovakian Claims Act of 1981, must be filed on or before October 31, 1982.

3. Section 531.2 of the Commission's regulations is hereby amended by redesignating paragraphs (k) and (l) as paragraphs (l) and (m) respectively and by adding a new paragraph (k) which reads as follows:

§ 531.2 Form, content and filing of claims.

* * * * *

(k) FCSC Form 127-Statement of Claim against Czechoslovakia for losses arising after Auguat 8, 1958 (Second Czechoslovakian Claims Program).

These amendments are effective March 12, 1982.

Dated at Washington D.C. on February 4, 1982.

J. Raymond Bell,

Chairman.

[FR Doc. 82-6810 Filed 3-11-82; 8:45 am]

BILLING CODE 4410-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 530

[Docket No. 80-70]

Interpretations and Statements of Policy Status of Bulk Commodities With Respect to the Tariff Filing Requirements of Section 18(b)(1) of the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Final interpretative rule.

SUMMARY: This makes the transportation of bulk commodities loaded and carried in containers, trailers, rail cars, or similar intermodal equipment (with the exception of LASH or Seabee barges) moving in the foreign commerce of the United States subject to the tariff filing requirements of the Shipping Act, 1916.

EFFECTIVE DATE: Effective date of this interpretation is stayed until further order.

FOR FURTHER INFORMATION CONTACT: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: On October 14, 1980, the Commission issued a proposed interpretative rule (45 FR 67711), making bulk type cargo loaded in containers, trailers, rail cars, LASH or Seabee barges or similar types of intermodal equipment subject to the tariff filing requirements of section 18(b) of the Shipping Act, 1916, (46 U.S.C. 817), because, once so loaded, such cargo is carried with mark or count.

Several persons commented on the proposed rule. While most agreed with the rule to the extent that it is applied to bulk commodities loaded and carried in containers, trailers, rail cars or similar intermodal equipment, some objected to its application to LASH or Seabee barges. The objections were based upon the contention that such barges are "vessels" as provided by section 1 of the Shipping Act (46 U.S.C. 801) and not some form of intermodal equipment. Consequently, it was suggested that bulk type cargo transported in such vessels is "cargo loaded and carried in bulk without mark or count" and is therefore exempt from the tariff filing requirements of section 18(b)(1). The Commission agrees with this contention and thus finds that the exclusion of LASH/Seabee barges from its proposed interpretative rule is warranted.

The Commission therefore concludes that bulk type cargo loaded in containers, trailers, rail cars, or similar types of intermodal equipment (with the exception of LASH or Seabee barges) is subject to being loaded and carried with mark or count, and is, therefore, subject to the tariff filing requirements of section 18(b) of the Shipping Act, 1916.

Other commenting parties opposed the proposed rule on the ground that carriers of bulk commodities need complete flexibility in the quotation of freight rates and that bringing such cargo under the Commission's tariff filing regulations could result in higher costs to shippers. They therefore argued that all bulk cargo carried in intermodal equipment should be exempt from the tariff filing requirements regardless of the type of equipment employed.

The Commission agrees that there may be some merit to exempting certain types of bulk commodities from the tariff filing requirements of section 18(b)(1). However, such an exemption is beyond the scope of this proceeding. Therefore, by separate Notice issued this date, the Commission is instituting a rulemaking proceeding to consider the exemption of certain bulk commodities under section 35 of the Shipping Act, 1916 (46 U.S.C. 833a). Pending completion of this new rulemaking and to avoid potentially unnecessary tariff filings, the Commission is staying the effective date of the Interpretative Rule issued in this proceeding.

PART 530—INTERPRETATIONS AND STATEMENTS OF POLICY

Therefore, Part 530 of the Code of Federal Regulations is amended by adding § 530.15 as follows:

§ 530.15 Further interpretation of the Shipping Act.

Section 18(b)(1) of the Shipping Act, 1916, provides, in part, that:

* * * Every common carrier by water in foreign commerce and every conference of such carriers shall file with the Commission and keep open to public inspection tariffs showing all the rates and charges of such carrier or conference of carriers for transportation to and from United States ports and foreign ports between all points on its own route and on any through route which has been established * * * The requirements of this section shall not be applicable to cargo loaded and carried in bulk without mark or count * * *

The Federal Maritime Commission interprets this provision to mean that bulk cargo which is loaded in containers, trailers, rail cars, or similar types of intermodal equipment is subject to being loaded and carried with mark or count and is therefore subject to the tariff filing requirements of section 18(b)(1) of the Shipping Act, 1916. This interpretation does not apply to bulk cargo loaded and carried in LASH or Seabee barges. For the purposes of this section "bulk cargo" means those commodities which are in a loose, unpackaged form and have homogeneous characteristics.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-6711 Filed 3-11-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 43

[CC Docket No. 82-85; FCC 82-77]

Amendment of Annual Report of Licensee in Public Mobile Radio Services (FCC Form L); Temporary Suspension of Reporting Requirements.

AGENCY: Federal Communications Commission.

ACTION: Final rule; Temporary suspension of reporting requirements.

SUMMARY: This document notifies the public that the Commission temporarily suspended the existing Form L reporting requirements for 1981 for public mobile radio services until a related rulemaking is completed. Published in the Proposed Rules section of this issue, a Notice of proposed rulemaking (CC Docket No. 82-85; FCC 82-77) proposes to simplify or eliminate reporting requirements for Public Mobile Radio Service licensees.

DATES: Effective February 11, 1982.

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

FOR FURTHER INFORMATION CONTACT: Alan Feldman, Economics Division, (202) 632-7084.

In CC Docket No. 82-85, FCC 82-77, the Commission is seeking to simplify or eliminate reporting requirements for Public Mobile Radio Service (PMRS) licensees. In light of the burden the current Form L requirement places on PMRS licensees, the Commission in the above referenced docket temporarily suspended the Form L reporting requirement for 1981 (47 CFR 1.785(a)(2) and 43.21) until such time as the rulemaking proceeding is completed.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-6730 Filed 3-11-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 21, 22, 23, 25, 73, 78, 87, 90 and 94

Editorial Amendment of the Commission's Rules To Reflect Changes in the Coordination Contact for the Protection of the Table Mountain Quiet Zone

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: An editorial order is being issued by request of the Department of Commerce to change the coordination contact for the protection of the Table Mountain quiet zone. Also corrections are made of errors existing in the field strength table for domestic public fixed radio services and public mobile radio services (Parts 21 and 22 respectively).

EFFECTIVE DATE: March 10, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Harding Chism, Office of Science and Technology, Washington, D.C. 20554, (202) 653-8166—Room 7310.

Order

Adopted: February 22, 1982.

Released: February 24, 1982.

In the matter of editorial amendment Parts 21, 22, 23, 25, 73, 78, 87, 90 and 94 of the Federal Communications Commission rules and regulations.

1. We are editorially amending Parts 21, 22, 23, 25, 73, 78, 87, 90 and 94 of the Commission's Rules to reflect changes in the coordination contact for the protection of the Table Mountain quiet zone. These changes are the result of new postal regulations and recent telephone number changes at the U.S. Department of Commerce's Boulder Laboratories. The affected sections of the Parts cited are, §§ 21.113(b)(2), 22.113(b)(2), 23.20(d)(2), 25.203(f)(3), 73.103(b)(2), 78.19(e)(2), 87.31(f)(2), 90.177(c)(2) and 94.25(f)(2).

2. We are further editorially amending Parts 21 and 22 of the Commission's Rules to correct typographical errors that exist in the field strength tables in §§ 21.113(b) and 22.113(b).

3. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's Rules. Since the amendment is editorial in nature, the public notice procedure and effective date provisions of 5 U.S.C. 553 do not apply.

4. For questions regarding matters covered in this document, contact Harding Chism, telephone number (202) 653-8166.

5. In view of the above, it is ordered that the Rules are Amended as set forth in the attached Appendix and are adopted effective March 10, 1982.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Alan R. McKie,

Deputy Managing Director.

Appendix

For the reasons set out in the preamble, Parts 21, 22, 23, 25, 73, 78, 87, 90 and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

1. In § 21.113, the table in paragraph (b) is corrected and paragraph (b)(2) is revised as follows:

§ 21.113 Quiet zones.

* * * * *

(b) * * *

	Field strength (mV/m) in authorized bandwidth of service	Power flux density [1] (dBW/m [2]) in authorized bandwidth of service
Below 540 kHz	10	−65.8
540 to 1600 kHz	20	−59.8
1.6 to 470 MHz	10	[2] −65.8
470 to 890 MHz	30	[2] −56.2
Above 890 MHz	1	[2] −85.8

[1] Equivalent values of power flux density are calculated assuming free space characteristic impedance of $376.7 = 120\pi$ ohms.

[2] Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

* * * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497-6549, in advance of filing their applications with the Commission.

* * * * *

PART 22—PUBLIC MOBILE RADIO SERVICES

2. In § 22.113, the table in paragraph (b) is corrected and paragraph (b)(2) is revised as follows:

§ 22.113 Quiet zones.

* * * * *

(b) * * *

	Field strength (mV/m) in authorized bandwidth of service	Power flux density [1] (dBW/m [2]) in authorized bandwidth of service
Below 540 kHz	10	−65.8
540 to 1600 kHz	20	−59.8
1.6 to 470 MHz	10	[2] −65.8
470 to 890 MHz	30	[2] −56.2
Above 890 MHz	1	[2] −85.8

* * * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497–6548 or 497–6549, in advance of filing their applications with the Commission.

* * * * *

PART 23—INTERNATIONAL FIXED PUBLIC RADIO COMMUNICATIONS SERVICES

3. In § 23.20 paragraph (d)(2) is revised as follows:

§ 23.20 Assignment of frequencies.

* * * * *

(d) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497–6548 or 497–6549, in advance of filing their applications with the Commission.

* * * * *

PART 25—SATELLITE COMMUNICATIONS

4. In § 25.203 paragraph (f)(3) is revised as follows:

§ 25.203 Choice of sites and frequencies.

* * * * *

(f) * * *

(3) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497–6548 or 497–6549, in advance of filing their applications with the Commission.

* * * * *

PART 73—RADIO BROADCAST SERVICES

5. In § 73.1030 paragraph (b)(2) is revised as follows:

§ 73.1030 Notifications concerning interference to Radio Astronomy, Research and Receiving Installations.

* * * * *

(b) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497–6548 or 497–6549, in advance of filing their applications with the Commission.

* * * * *

PART 78—CABLE TELEVISION RELAY SERVICES

6. In § 78.19 paragraph (e)(2) is revised as follows:

§ 78.19 Interference.

* * * * *

(e) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497–6548 or 497–6549, in advance of filing their applications with the Commission.

* * * * *

PART 87—AVIATION SERVICES

7. In § 87.31 paragraph (f)(2) is revised as follows:

§ 87.31 Application for ground station authorization.

* * * * *

(f) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497–6548 or 497–6549, in advance of filing their applications with the Commission.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

8. In § 90.177 paragraph (c)(2) is revised as follows:

§ 90.177 Protection of certain radio receiving locations.

* * * * *

(c) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497–6548 or 497–6549, in advance of filing their applications with the Commission.

* * * * *

PART 94—PRIVATE OPERATIONAL FIXED MICROWAVE SERVICES

9. In § 94.25 paragraph (g)(2) is revised as follows:

§ 94.25 Filing of applications.

* * * * *

(g) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497–6548 or 497–6549, in advance of filing their applications with the Commission.

* * * * *

[FR Doc. 82-6719 Filed 3-11-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

Tanner Crab Off Alaska

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

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, National Marine Fisheries Service, has determined that the desired harvest level of Tanner crab for the Eastside Section of the Kodiak District in Registration Area J will be achieved on March 9, 1982, and that early closure of the fishery is necessary to protect Tanner crab stocks. The Secretary of Commerce, therefore, issues this notice of closure of the Eastside Section to fishing for Tanner crab by vessels of the United States on March 9, 1982, thereby adjusting the previous closing date of April 30, 1982, in order to prevent overfishing of Tanner crab stocks in the Eastside Section.

DATE: This notice is effective from 12:00 noon, Alaska Standard Time (AST), March 9, 1982, until 12:00 noon Alaska, Daylight Time (ADT), April 30, 1982. This notice of closure was filed for public inspection with the Office of the **Federal Register** on March 9, 1982, at 4:15 p.m. Public comments on this notice of closure are invited until March 25, 1982.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907–586–7221.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Commercial Tanner Crab Fishery Off

the Coast of Alaska (FMP), governing this fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act, provides for inseason adjustments, by field order, to season and area openings and closures. Implementing rules at 50 CFR 671.27(b) specify that these orders will be issued by the Secretary of Commerce under the criteria set out in that section.

50 CFR 671.26(f) establishes five districts within Registration Area J in order to prevent overfishing of individual Tanner crab stocks by allowing closure of partial closure of a particular district when the desired harvest level is reached. One of these districts is the Kodiak District, for which an overall optimum yield of 35 million pounds has been set.

One section in the Kodiak District is the Eastside Section. The State of Alaska's 1981 Tanner crab index survey indicates the desired harvest level during the 1982 season to be 1,200,000 pounds for this section. That level is based on the relative abundance of legal male crabs observed in the crab indexing surveys conducted in 1981 as compared to 1980. During the 1982 fishing season, which began February 10 (the opening date was delayed from January 22 to February 10, see 46 FR 58699), catch per unit of effort (CPUE) has declined from an average of 26 crabs per pot to 15 crabs per pot over the area. This declining CPUE substantiates the results of the 1981 survey. Further fishing could result in harm to the resource.

As of March 5, about 1,000,000 pounds have been harvested in the Eastside Section by 38 vessels. It is estimated that the desired harvest of 1,200,000 pounds of crab from this section will be achieved on March 9, 1982.

In light of this information, the Regional Director, National Marine Fisheries Service, in accordance with 50 CFR 671.27(b), has determined that:

1. The actual condition of Tanner crab stocks in the Eastside Section is substantially different from the condition that was previously anticipated; and

2. This difference reasonably supports the need to protect those Tanner crab stocks by closing the Eastside Section to further fishing for Tanner crab during the current fishing year after 12:00 noon, AST, on March 9, 1982.

For these reasons, the Eastside Section of the Kodiak District in Registration Area J, as defined in 50 CFR 671.26(f)(1)(i), is closed to all fishing for Tanner crab from 12:00 noon, AST, March 9, 1982, until 12:00 noon ADT, April 30, 1982, at which time the closure of this section prescribed in 50 CFR 671.26(f)(2)(i) will begin.

This closure will not be effective prior to filing this notice for public inspection with the Office of the Federal Register and publicizing the closure for 48 hours through ADF&G procedures, under 50 CFR 671.27(a)(2). Under 50 CFR 671.27(b)(4), public comments on this notice of closure may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m.) at (1) the NMFS Kodiak Field Office, ADF&G Building, at Kashevaroff and Mission Roads, Kodiak, Alaska 99615, and (2) the NMFS Alaska Regional Office, Federal Building, Room 483, 709 West Ninth Street, Juneau, Alaska 99802. If comments are received, the necessity of this closure will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this field order's continued effect, modifying it, or rescinding it.

Other Matters

The Tanner crab stock in the Eastside Section will be subject to damage by overfishing unless this order takes effect promptly. I therefore find for good cause that advance notice and public comment on this order is contrary to the public interest, and that there should be no delay in its effective date.

This action is taken under the authority of regulations specified at 50 CFR 671.27, and is taken in compliance with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. In addition, it does not contain any collection of information request, as defined in the Paperwork Reduction Act of 1980.

(16 U.S.C. 1801 et seq.)

Dated: March 9, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-6809 Filed 3-9-82; 4:15 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 49
Friday, March 12, 1982

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 410

Employee Training Agreements

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: This document proposes changes in the regulations implementing the Government Employees Training Act in relation to the administration of employee agreements to continue in service after being assigned to training in a non-Government facility. The law (5 U.S.C. 4108(a)) establishes the Government's right to require an agreement from employees that they will continue in the service of the Government for a specified period before they are assigned to training in a non-Government facility. The proposed regulations would clearly state that a written agreement must be obtained before an employee is assigned to non-Government training. Service in a nonpay status (except for furloughs) would no longer be countable toward the completion of the continued service obligation.

DATE: Comments must be received on or before May 11, 1982.

ADDRESS: Send or deliver written documents to: Office of Personnel Management, Training Policy Division—Room 200TC, Attn: Mr. Masterson, P.O. Box 7230, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Ms. Constance Guitian, (202) 653–6171.

SUPPLEMENTARY INFORMATION: The proposed regulations enumerate the consequences of the failure to fulfill a continued service agreement. If the employee voluntarily leaves the service of the Government, he or she must make at most a proportional repayment of the non-salary expenses of the training. Also, the employee must be provided the right to a reconsideration of the amount to be collected and an opportunity to request a waiver of the agency's right to recover.

A new procedure for transferring the obligation is proposed when the employee transfers to another agency. If the losing agency does not object, the gaining agency becomes responsible for the fulfillment of the oblilgation. If the losing agency finds that the employee would not use the training in the new position, it must notify the employee of its intention to recover a proportional payment of the additional expenses and provide due process procedures for an employee's response before making recovery.

Under the proposed rulemaking, an agency may waive its right of recovery from an employee who fails to fulfill a continued service agreement if: (1) The employee has completed most of the obligation; (2) the employee resigns because of personal illness or serious illness of a member of his/her family; or (3) the repayment would cause a severe financial hardship. The agency must provide due process procedures for an employee's response or appeal for a waiver of the agency's right to recover. With the adoption of these specific criteria for waiving the right of recovery, there would be no need for the constraint on internal agency delegations of authority to grant such waivers (5 CFR 410.509(b)(2)). This would be revoked.

E.O. 12291, Federal Regulations

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulations, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to complete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 410—TRAINING

Accordingly, the Office of Personnel Management proposes to amend 5 CFR Part 410 as follows:

1. Section 410.508 is revised to read as follows:

§ 410.508 Agreements to continue in service.

(a) For the purpose of administering section 4108 of title 5, United States Code:

(1) There must be a written continued service agreement before assignment to training by, in, or through a non-Government facility unless the training meets the conditions of paragraphs (b) or (c) of this section;

(2) The period of time an employee is required to agree to continue in the service of the agency begins on the first workday after the end of the training covered by the agreement and does not include any service in nonpay status except for furloughs; and

(3) "Additional expenses incurred by the Government in connection with his training" means expenses of training paid under section 4109(a)(2) of title 5, United States Code, but not salary, pay, or compensation.

(b) An employee selected for training by, in, or through a non-Government facility that involves no expense to the Government other than his or her pay is excepted from the requirement in section 4108(a) of title 5, United States Code, for entering into a written agreement.

(c) The head of the agency may except from the requirement in section 4108(a) of title 5, United States Code, for entering into a written agreement:

(1) An employee selected for training provided by a manufacturer as a part of the normal service incident to initial purchase or lease of a product under a procurement contract;

(2) An employee selected for training by, in, or through a non-Government facility that does not exceed 80 hours within a single program; and

(3) An employee selected for training which is given through a correspondence course.

(d) When an agency pays only the expenses of an employee's training that are authorized by section 4109(a)(2) of

title 5, United States Code, the head of the agency may reduce to 1 month or to a period equal to the length of the training period covered by the payment, whichever is greater, the period of time the employee is required by section 4108(a) of title 5, United States Code, to agree to continue in the service of his or her agency.

2. Section 410.509 is revised to read as follows:

§ 410.509 Failure to fulfill agreements to continue in service.

(a)(1) Each written agreement required under section 4108(a) of title 5, United States Code, shall specify that the employee must repay the additional expenses if he or she voluntarily separates from the Government. The percentage of the additional expenses to be repayed may not exceed the proportion of the agreement not completed. The agency shall provide procedures to enable the employee to obtain a reconsideration of the amount to be recovered or to appeal for a waiver of the agency's right to recover.

(2) Except as provided in subparagraph (3) of this paragraph, when the employing agency receives a request for transfer to another Government agency of an employee subject to an agreement, it will notify the gaining agency that the employee is still subject to a continued service agreement and transfer the agreement to the gaining agency. The gaining agency must then assure that the agreement is fulfilled.

(3) If the employing agency finds that the employee would not use the training in the new position, it must give the employee notification of its intention to recover the additional expenses before the effective date of the transfer. The percentage of the additional expenses recovered cannot exceed the proportion of the agreement not completed. The agency must provide due process procedures, including an opportunity for the employee to rebut the agency findings that he or she would not use the training in the new position, before it can proceed to recover the appropriate amount of training expenses. The completion of recovery relieves the employee of the obligation to continue in the service of the Government.

(b) The head of an agency, or a representative especially designated by him or her for this purpose, must provide due process procedures for an employee's response to an agency request for repayment of the additional expenses and for an employee's appeal for a waiver of the agency's right of recovery under section 4108(c) of title 5, United States Code, before the agency can recover the appropriate payment and may waive, in whole or in part, the right of the agency to recover when he or she finds that:

(1) The employee has completed most, but not all, of the required period of service;

(2) The employee resigned because of his or her own illness or the serious illness of a member of his or her immediate family; or

(3) The employee is unable to make payment because of severe financial hardship.

(5 U.S.C. 4101 *et seq.*)

[FR Doc. 82-6590 Filed 3-11-82; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 309 and 381

[Docket Number 81-041P]

Meat and Poultry Products; Expanded Use of Microbiological Screening Procedures

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the Federal meat and poultry products inspection regulations to provide for inplant screening of livestock and poultry suspected of being contaminated by biological residues. Presently, suspect livestock and poultry carcasses and parts of carcasses are retained until tissue sample test results are obtained from USDA laboratories. A swab test has been developed which permits the use of inplant screening procedures to reduce the number of carcasses and parts that must be retained for additional testing by USDA laboratories. These procedures are currently in use in testing cull dairy cattle. Implementation of these procedures for cull dairy cattle has resulted in more expeditious determinations regarding suspect carcasses and parts.

DATE: Comments must be received on or before May 11, 1982.

ADDRESS: Written comments should be sent in duplicate to the Regulations Office, 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. Oral comments concerning the poultry products inspection regulations may be directed to Dr. John E. Spaulding, (202) 447-2807. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Dr. John E. Spaulding, Director, Residue Evaluation and Surveillance Division, Science Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-2807.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined, in accordance with Executive Order 12291, that this proposal is not a "major rule". It will not result in 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. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The only alternative to this proposal would be the continuation of current procedures, which require retention of all suspect carcasses and parts while appropriate testing for antibiotic residues is being conducted by USDA laboratories. While continuation of this system would eliminate the expense of establishing inplant testing, it is anticipated that the long term savings of a Swab Test on Premises (STOP) operation would outweigh the expense of establishing it. Expansion of STOP would result in more expeditious determinations regarding suspect carcasses and parts. FSIS scientists have been able to reduce the cost of adopting this program by developing a microbiological test plate which is stable at room temperatures for at least 6-9 months. Previously the test plates were not stable this long.

Effect on Small Entities

The Administrator has determined that this proposed rule 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 would place no new requirements on industry. It would affect only USDA inplant operating procedures.

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent in duplicate to the Regulations

Office. Comments should reference the docket number which appears in the heading of this document. Any person desiring an opportunity for oral presentation of views on this proposal must make such request to Dr. Spaulding so that arrangements may be made for all views to be presented. A transcript will be made of all oral presentations. All comments submitted pursuant to this notice will be made available for public inspection in the Regulations Office between 8:00 a.m. and 4:30 p.m., Monday through Friday.

Background

Pursuant to section 4 of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 604) and section 6 of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 455(b)), the Department of Agriculture conducts post-mortem inspection of carcasses and parts of carcasses of cattle, sheep, swine, goats, horses, and other equines; and chickens, turkeys, ducks, geese and guineas, respectively. The purpose of the inspection is to detect adulterated carcasses and parts and prevent their use as human food.

One phase of the post-mortem inspection is to detect the presence of unlawful levels of antibiotic residues in animal tissues which would render the carcasses and parts adulterated. Until recently all tissue samples from suspect carcasses and parts were tested and analyzed by USDA laboratories. The sample testing required that the carcasses and parts be retained pending the receipt of the test results. Despite various efforts to expedite the process, the use of such procedures was often costly and time-consuming. In order to improve these procedures, the Agency developed a more expeditious means for the inplant screening of product. These procedures can be employed at the time of inspection to identify carcasses and parts that are suspected of being adulterated and should therefore be retained pending further laboratory testing, and those that should be inspected and passed.

On August 3, 1979, the Food Safety and Inspection Service (FSIS), formerly the Food Safety and Quality Service, published a final rule in the **Federal Register** (44 FR 45605–45606) which established these inplant screening procedures for cull dairy cattle (9 CFR 309.16(a)). The STOP program was initiated after an extensive educational program had been conducted by producer cooperatives and extension services. It has not resulted in any disruption of normal marketing practices. In fact, since the program's inception the number of animals screened by the inplant inspectors has increased by ten-fold over the previous rate, with a 50 percent reduction of residue violations from antibiotics in all cows and a 33 percent reduction in the number of cows presented showing evidence of mastitis, the most critical disease condition in cull dairy cattle.

Because FSIS has been using this test in its laboratories to screen tissues from all species for the past 6 years and it is equally reliable in species other than cattle, the Agency believes it is time to make this procedure available at all slaughter plants. Implementation of the procedure was designed to benefit the meatpacking and poultry industries, and the public by improving and making more expeditious the procedures for detecting and eliminating illegal antibiotic residues from the meat and poultry supply.

Therefore, the Agency is proposing to revise section 309.16(a) of the Federal meat inspection regulations (9 CFR 309.16(a)) and section 381.74 of the Federal poultry products inspection regulations (9 CFR 381.74). The regulations would be revised to permit inplant screening procedures to detect the presence of unlawful levels of antibiotic residues in any species of livestock and poultry.

Accordingly, Part 309 of the Federal meat inspection regulations and Part 381 of the Federal poultry products inspection regulations would be revised to read as follows:

PART 309—ANTE-MORTEM INSPECTION

1. The authority citation for Part 309 reads as follows:

Authority: Sections 4 and 21, 34 Stat. 1260, 1264, as amended, 21 U.S.C. 603, 604, 621; 81 Stat. 584, 588, 592, 593, 42 FR 35625, 35626, 35631.

2. Section 309.16(a) would be revised to read as follows:

§309.16 Livestock suspected of having biological residues.

(a) Except as provided by paragraph (c) of this section, livestock suspected of having been treated with or exposed to any substance that may impart a biological residue that would make the edible tissues unfit for human food or otherwise adulterated, shall be handled in compliance with the provisions of this paragraph. They shall be identified at official establishments as "U.S. Condemned." These livestock may be held under the custody of a Program employee, or other official designated by the Administrator, until metabolic processes have reduced the residue sufficiently to make the tissues fit for human food and otherwise not adulterated. When the required time has elapsed, the livestock, if returned for slaughter, must be re-examined on ante-mortem inspection. To aid in determining the amount of residue present in the tissues, officials of the Program may permit the slaughter of any such livestock for the purpose of collecting tissues for analysis for the residue. Such analysis may include the use of inplant screening procedures designed to detect the presence of antibiotic residues in any species of livestock.

* * * * *

PART 381—MANDATORY POULTRY PRODUCTS INSPECTION

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

Authority: Section 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962, (7 U.S.C. 450); and Subsection 21(b) of the Federal Water Pollution Control Act, as amended by Public Law 91–224 and by other laws (33 U.S.C. 1171(b)).

4. Section 381.74 would be revised to read as follows:

§381.74 Poultry suspected of having biological residues.

When any poultry at an official establishment is suspected of having been treated with or exposed to any substance that may impart a biological residue that would make their edible tissues adulterated, they shall, at the option of the operator of the establishment, be processed at the establishment and the carcasses and all parts thereof retained under U.S. Retained tags, pending final disposition in accordance with §381.80 and other provisions in Subpart K; or they shall be slaughtered at the establishment and buried or incinerated in a manner satisfactory to the inspector. Alternatively, such poultry may be returned to the grower, if further holding is likely to result in their not being adulterated by reason of any residue. The Inspection Service will notify the other Federal and State agencies concerned of such action. To aid in determining the amount of residue present in the poultry, officials of the Inspection Service may permit the slaughter of any such poultry for the purpose of collecting tissues for analysis of the residue. Such analysis may include the use of inplant screening procedures designed to detect the presence of antibiotic residues in any species of poultry.

Done at Washington, D.C., on February 25, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-6760 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 561 and 564

[No. 82-161]

FSLIC Insurance Coverage of Deferred Compensation Plans

Dated: March 5, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board proposes to amend its regulations governing insurance of accounts to provide $100,000 insurance coverage for the interest of each participant in a deferred compensation plan the funds of which are invested in an institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation.

DATE: Comments must be received by April 10, 1982.

ADDRESS: Send comments to the Public Information Officer, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Kenneth F. Hall, Office of General Counsel (202)-377-6466), at the above address.

SUPPLEMENTARY INFORMATION: Section 401(b) of the National Housing Act ("Act") provides in relevant part that "funds held in fiduciary capacity . . . shall be insured in an amount not to exceed $100,000 for each trust estate . . . " (12 U.S.C. 1724(b)). Section 405(a) of the Act (12 U.S.C. 1728(a)) authorizes the Board, for purposes of defining the extent of insurance coverage, to define the terms used in section 401(b). Pursuant to this statutory authority, the Board proposes to amend its regulatory definition of "trust estate" (12 CFR 561.4 (1981)) to include the interest of each participant in a deferred compensation plan.

Generally, under a deferred compensation plan, an employer and employee agree in advance that a specified amount of the employee's salary or other compensation shall be deferred over the course of the latter's employment. During the period of deferral, the deferred or a like amount of funds are invested, and typically may be invaded for the employee's benefit where an emergency beyond the employee's control has occurred. Upon an employee's retirement or separation from employment, the benefits accumulated under the plan (deferred income, and gains, losses and income from investments) are distributed, normally in regular payments over a period of years. The great majority of deferred compensation plans are sponsored by state or local governmental units.

Currently, the interests of participants in non-trusteed deferred compensation plans are not separately insured. Sections 564.2(c) and 564.10 of the Board's regulations (12 CFR 564.2(c), 564.10 (1981)) provide insurance coverage to the interests of participants in employee benefit plans only if the plans are trusteed. However, for purposes of determining the extent of insurance coverage, there appears to be no substantive difference between the interest of a participant in a deferred compensation plan and the interest of a beneficiary in a trusteed employee pension plan.

Both plans are intended to provide retirement income for participants. Although the funds in a deferred compensation plan typically remain the sole property of the employer, this is primarily to satisfy the provisions of section 451 and 457 of the Internal Revenue Code (I.R.C. sections 451, 457) to ensure the postponement of taxes on deferred income until the year in which such income is paid to a plan participant. Retention of ownership by the employer does not alter the fact that, as with a trusteed pension plan, the funds must be used for the participant's benefit unless the employer becomes insolvent and the funds are thereby depleted. Participants in a trusteed pension plan face a similar risk with regard to the trust assets.

Because of the similarities between deferred compensation plans and trusteed employee benefit plans, the Board proposes to extend insurance coverage to the interest of each participant in a deferred compensation plan by amending its definition of "trust estate" (12 CFR 561.4 (1981)) to include such interests. Section 561.4 currently defines "trust estate" to include only the interest of a beneficiary in an irrevocable express trust. In addition, the Board proposes to amend paragraph (c) of § 564.2 to provide that the trust estate of each participant in a deferred compensation plan shall be evaluated as if the participant were a beneficiary of an irrevocable trust and the interest of the participant had fully vested as of the date of default of the insured institution.

The Board requests comment on all issues raised by the proposal, including whether the extension of insurance coverage should be limited to any particular types of deferred compensation plans. The Board notes that, as the proposed amendments are drafted, insurance coverage would be extended to all deferred compensation plans, whether or not they comply with the various provisions of the Internal Revenue Code and regulations promulgated thereunder addressing the tax treatment of such plans.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 13, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objective and legal basis underlying the proposed rule.* These elements are incorporated above in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply equally to all institutions whose accounts are insured by the FSLIC, regardless of size.

3. *Overlapping or conflicting Federal rules.* There are no known Federal rules that may duplicate, overlap or conflict with the proposal.

4. *Alternatives to the proposed rule.* There is no alternative method of insuring the individual interest of participants in deferred compensation plans.

Comments on this proposal will be accepted for a period of thirty days, until April 10, 1982. The Board believes a thirty-day comment period is appropriate because it is in the public interest to clarify the extent of insurance coverage of interests in employee retirement plans.

Accordingly, the Board hereby proposes to amend Parts 561 and 564 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, to read as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

1. Revise § 561.4, to read as follows:

§ 561.4 Trust estate.

The term "trust estate" means (a) the interest of a beneficiary in an irrevocable express trust, whether created by trust instrument or statute, but does not include any interest retained by the settlor, or (b) the interest

of a participant in a deferred compensation plan, which plan shall be considered a trust for purposes of applying § 564.10 of this Part.

PART 564—SETTLEMENT OF INSURANCE

2. Revise paragraph (c)(1) of § 564.2, to read as follows:

§ 564.2 General principles applicable in determining insurance of accounts.

* * * * *

(c) *Valuation of trust interests.* (1) Trust estates (as defined in § 561.4 of this Subchapter) in the same trust invested in the same account will be separately insured if the value of the trust estate is capable of determination, as of the date of default, without evaluation of contingencies except for those covered by the present worth tables and rules of calculation for their use set forth in § 20.2031–10 of the Federal Estate Tax Regulations (26 CFR 20.2031–10): *Provided,* that (i) in connection with pension and other trusteed employee benefit funds (including those qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954), the trust estate of each participant shall be evaluated as if the trust were irrevocable and the interest of the participant had fully vested as of the date of default of the insured institution, and (ii) in connection with deferred compensation plans, the trust estate of each participant shall be evaluated as if the participant were the beneficiary of an irrevocable trust and the interest of the participant had fully vested as of the date of default of the insured institution.

* * * * *

(Secs. 401, 402, 403, 405; 48 Stat. 1255, 1256, 1257, 1259, as amended; 12 U.S.C. 1724, 1725, 1726, 1728. Reorg. Plan No. 3 of 1947, 12 F.R 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–6822 Filed 3–11–82; 8:45 am]

BILLING CODE 6720–01–M

POSTAL SERVICE

39 CFR Part 775

National Environmental Policy Act (NEPA); Amendment of Public Notice Provisions

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to relax certain provisions of its environmental impact procedures, inasmuch as those procedures unnecessarily require, rather than permit, the mailing of notices of local actions to potentially interested community organizations and to owners and occupants of nearby or affected property. The relaxed procedures would be substantially similar to comparable permissive provisions of the NEPA regulations of the Council on Environmental Quality.

DATE: Comments must be received on or before Arpil 12, 1982.

ADDRESS: Written comments should be sent to the Director, Office of Program Planning, Real Estate and Buildings Department, U.S. Postal Service, Washington, D.C. 20260–6400. Copies of all written comments will be available for public inspection and photocopying between 9:00 AM and 4:00 PM, Monday through Friday, in Room 4141, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Royal Rasmussen, (202) 245–4354.

SUPPLEMENTARY INFORMATION: On November 5, 1979, the Postal Service adopted procedures (39 CFR Part 775) effectuating the regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508, November 29, 1978) under the procedural requirements of the National Environmental Policy Act (42 U.S.C. 4332 (1976)). Certain of the Postal Service's procedures regarding notice to the public of environmental actions, which are more stringent than the comparable regulations of the Council on Environmental Quality, have been found in practice to be impractical.

In particular, the Postal Service's procedures require that notices of proposed actions having environmental effects primarily of local concern be mailed to potentially interested community organizations and to owners and occupants of nearby and affected property. Such mailings are permissive under the regulations of the Council on Environmental Quality. (See 40 CFR 1506.6(b)(3)). The present proposed amendment would make them permissive under the Postal Service's procedures.

In practice, the Postal Service has found that adequate notice generally is given through the publication of notices in local newspapers, the posting of notices on and near sites affected by proposed actions, and the invoking of state and local government processes by mailing notices to A–95 Clearinghouses, all of which would continue to be required. In addition, the difficulty of identifying and locating all potentially interested community organizations and all owners and occupants of nearby and affected property could result in inadvertent technical violations of the mandatory requirements for the mailing of notices to such organizations and owners and occupants. The presently proposed amendments relax those particular mailing requirements, while keeping the remaining requirements mandatory in order to ensure a continued high level of public involvement in Postal Service facility actions. While notices in newspapers, notices posted at sites, and notices mailed to A–95 Clearinghouses are permissive under the Council on Environmental Quality's regulations, those notices will remain mandatory under the Postal Service's procedures.

Several minor language changes are also proposed to clarify procedures for Postal Service managers. In addition, we are publishing existing § 775.10(a)(4), because this section is referenced in proposed § 775.10(a)(2).

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions of Title 39, Code of Federal Regulations:

PART 775—ENVIRONMENTAL PROCEDURES

In § 775.10, revise paragraph (a) to read as follows:

§ 775.10 Public notice and information.

(a) Public notice is given of NEPA-related hearings, intent to undertake environmental assessments and environmental impact statements, and the availability of environmental documents (that is, environmental assessments, findings of no significant impact, and environmental impact statements), as follows:

(1) Notices must be mailed to those who have requested them.

(2) Notices concerning a proposal of national concern must be mailed to national organizations reasonably expected to be interested. Any such notice must be published in the **Federal Register.** (See paragraph (a)(4) of this section).

(3) Notices of any proposed action having effects primarily of local concern are given as follows:

(i) Any such notice, including a copy of any pertinent environmental document, must be mailed to state, areawide, and local A–95 clearinghouses listed in OMB Circular A–95 (Revised) for the geographic area involved, to the State Historic

Preservation Officer, and to local public officials.

(ii) Any such notice must be published in one or more local newspapers.

(iii) Any such notice must be posted on and near any proposed and alternate sites for an action.

(iv) Any such notice may be mailed to potentially interested community organizations, including small business associations.

(v) Any such notice may be mailed to owners and occupants of nearby or affected property.

(4) A copy of every notice of intent to prepare an environmental impact statement must be furnished to the Assistant General Counsel, Legislative Division, Law Department, who will have it published in the **Federal Register.**

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-6829 Filed 3-11-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1933-2]

Approval and Promulgation of Implementations Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA announced elsewhere in today's **Federal Register** final rulemaking on parts of the Indiana sulfur dioxide (SO_2) State Implementation Plan (SIP). Indiana submitted these revisions to partially satisfy the requirements of Part D of the Clean Air Act, as amended in 1977. In the final rulemaking, EPA conditionally approved certain revisions to the Indiana SO_2 SIP. This notice solicits public comment on the deadline by which the State of Indiana has committed itself to remedy the conditionally approved portions of SO_2 SIP.

DATES: Comments must be received on or before April 12, 1982.

ADDRESSES: Comments should be sent to the following address:

Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the materials submitted by the State and the public during the comment period announced in this notice of proposed rulemaking are available for review during normal business hours at the following addresses:

USEPA, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Air Pollution Control Division, 1330 W. Michigan Street, Indianapolis, Indiana 46206.

USEPA, Public Information Reference Unit, 401 M Street SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: In final rulemaking action published in today's **Federal Register,** EPA approved, conditionally approved, and disapproved portions of Indiana's SO_2 control strategies. A discussion of conditional approval and its practical effects appears in the July 2, 1979 and the November 23, 1979 **Federal Registers** (44 FR 385883 and 67182). A conditional approval requires the State to remedy identified deficiencies by specified deadlines. Although public comment is solicited on the deadlines, the State remains bound by its commitments unless the schedules are disapproved by EPA in its final rulemaking action. A conditional approval means that the restriction on new source construction in designated nonattainment areas will not apply unless the State fails to submit the corrections by the specified date, or unless the corrections are ultimately determined to be inadequate.

In today's final rulemaking, EPA also identified the conditions which must be satisfied by the State of Indiana to correct the specified deficiencies in the SO_2 revision to the Part D Indiana SIP. The State of Indiana has provided assurances in letters dated August 27, 1980 and July 16, 1981 that it will satisfy these conditions on a specific schedule.

EPA proposes to approve the following schedule for Indiana to correct the remaining minor deficiencies in the Lake, LaPorte and Marion Counties SO_2 SIP.

Schedules

1. The State of Indiana believes that the twenty-four hour standard is the limiting standard, and if a demonstration is made that it has been attained and will be maintained, the three hour standard and annual standards will also be met. The State of Indiana committed itself to submit documentation substantiating this belief. If protection of the three hour and annual standard cannot be justified, the State committed itself to investigate further and make necessary changes, including changes to affected regulations, and submit the same to EPA by November 1982.

2. The State of Indiana committed itself to submit the justification for the background concentrations for all appropriate averaging periods to EPA. If this documentation is not sufficient, the State of Indiana committed itself to investigate and make any necessary revisions, including changes to affected regulations, and submit the same to EPA by November 1982.

3. The State of Indiana committed itself to submit to EPA the corrected emission inventories for Marion and Lake Counties. If the submission is not adequate, the State committed itself to investigate and make necessary corrections, including changes to regulations, and submit the same to EPA by November 1982.

4. The State of Indiana committed itself to submit to EPA the corrected receptor network coverage and resolution, including a listing of the high and second high concentrations on critical days. If additional documentation is necessary, the State committed itself to investigate and make further revisions, including changes to affected requlations, and submit the same to EPA by November 1982.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator certified on January 27, 1981 (46 FR 8709) that regulatory actions approving revisions to SIP's under Sections 110 and 172 of the Act will not have a significant economic impact on a substantial number of small entities. This action, if promulgated, only approves State actions. It will impose no new 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, if promulgated, will not be major as defined by Executive Order 12291, because this action only approves a State action. This action only proposes for public comment those dates by which Indiana has committed itself to submit technical support and/or revisions to the SO_2 SIP which was conditionally approved elsewhere in today's **Federal Register.** This action should nave no economic costs involved above those necessary to perform the revised analyses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

(Sec. 110, 172, and 301(a) of the Clean Air Act, as amended)

Dated: March 5, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-6621 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[SW-4-FRL-2073-3]

Georgia's Application for Interim Authorization, Phase II, Components A and B, Hazardous Waste Program; Public Hearing and Comment Period

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of public hearing and public comment period.

SUMMARY: Regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980, (45 FR 33063). The hazardous waste management program regulations include provisions for authorization of State programs to operate in lieu of the Federal program and for a transitional stage in which States can be granted interim program authorization. This document announces the availability for public review of the Georgia application for Phase II, Components A and B Interim Authorization, invites public comment, and gives notice of a public hearing held on the application.

DATE: Written comments on Georgia Interim Authorization application must be received by the close of business on April 19, 1982.

Public hearing: EPA will conduct a public hearing on the Georgia Interim Authorization application at 7:00 p.m. on Monday, April 12, 1982. The State of Georgia will participate in the public hearing held by EPA on this subject.

ADDRESSES: Copies of the Georgia Interim Authorization application are available at the following addresses for inspection and copying by the public:

Land Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, SW., Room 824, Atlanta, Georgia 30334, Telephone: 404/656-2833;

Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street NE., Atlanta, Georgia 30365, Telephone: 404/881-3016;

Environmental Protection Agency, Headquarters Library, 401 M Street, SW., Washington, D.C. 20460, 202/755-0308.

Written comments should be sent to: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365, Telephone: 404/881-3016.

The public hearing will be held at: Environmental Protection Agency, First Floor Conference Room, 345 Courtland Street NE., Atlanta, Georgia 30365, Telephone: 404/881-3016.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. Telephone: 404/881-3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted Interim Authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. The State of Georgia received Interim Authoziation for Phase I on February 3, 1981.

In the January 26, 1981, **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of Interim Authorization. Component A, published in the **Federal Register** January 12, 1981, (46 FR 2802) contains standards for permitting containers, tanks, surface impoundments, and waste piles. Component B published in the **Federal Register** January 23, 1981, (46 FR 7666) contains standards for permitting hazardous waste incinerators.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123 Subpart F (45 FR 33479). As noted in the May 19, 1980, **Federal Register** copies of complete State submittals for Phase II Interim Authorization will be made available for public inspection and comment. In addition, a public hearing will be held on the submittal.

The purpose of this notice is to announce the availability of the Georgia submittal for Phase II Interim Authorization, Component A and Component B; to invite public comment; and to give notice of a public hearing to be held on Georgia's application.

In addition, Georgia has applied for delegation from EPA of its authority under the temporary regulations promulgated as the Interim Land Disposal Permitting Program (40 CFR Part 207).

Dated: March 5, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-6883 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[WH-S-FRL-2073-2]

Illinois Department of Mines and Minerals Underground Injection Control Primacy Application; Cancellation of Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notice of cancellation of public hearing.

SUMMARY: The public hearing on the Illinois Department of Mines and Minerals Underground Injection Control Primacy Application, scheduled for March 16, 1982, has been cancelled. The public hearing had been announced in the Friday, February 12, 1982 **Federal Register** (47 FR 6445). No requests for a public hearing have been received.

FOR FURTHER INFORMATION CONTACT: James Mayka, Ground Water Section (5WD-26), Environmental Protection Agency, Region 5, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 886-6194.

Dated: March 5, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82-6814 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Parts 122, 123, 124, 146

[WH-FRL-2073-1]

Oklahoma State Department of Public Health Underground Injection Control Primacy Application; Correction

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; correction.

SUMMARY: The Environmental Protection Agency on March 2, 1982, in 47 FR 8792 gave notice of intent to hold a public hearing on the Oklahoma Underground

Injection Control (UIC) Program. This document corrects the heading of the notice which referenced the Oklahoma Department of Natural Resources as the sponsoring agency. This was incorrect; the Oklahoma State Department of Health is the Agency applying for primacy.

FOR FURTHER INFORMATION CONTACT: Susan Stark, Ground Water Protection Section, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2774.

Dated: March 5, 1982.

Victor J. Kimm,

Director, Office of Drinking Water.

[FR Doc. 82–6827 Filed 3–11–82; 8:45 am]

BILLING CODE 6560–29–M

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40 CFR Part 123

[W–8–FRL 2073–5]

Wyoming Oil and gas Conservation Commission and Department of Environmental Quality; Underground Injection Control; Primacy Applications

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 (EPA) has received complete applications from the Wyoming Department of Oil and Gas Conservation Commission and the Wyoming Department of Environmental Quality requesting primary enforcement responsibility for the Underground Injection Control program; (2) the applications are 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 to approve, disapprove, or approve in part the application from the Wyoming Oil and Gas Conservation Commission to regulate Class II injection wells and the application of the Department of Environmental Quality to regulate Classes I, III, IV and V injection wells.

DATES: Requests to present oral testimony should be filed by April 6, 1982; the public hearing will be held on April 13, 1982, in two sessions: 10:00 a.m. and 7:00 p.m. Comments must be received by April 20, 1982.

ADDRESSES: Comments and requests to testify should be mailed to Wilma Martin, Drinking Water Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. Copies of the applications and pertinent materials are available between 8:30 a.m. and 4:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region VIII, Drinking Water Branch, 6th Floor, 1860 Lincoln Street, Denver, CO 80295, PH: (303) 837–2731, (*Entire Application*)

Oil and Gas Conservation Commission, State Oil and Gas Supervisor, 123 South Durbin, P.O. Box 2640, Casper, WY 82602, (*Class III Portion Only*)

Department of Environmental Quality, Equality State Bank Building, 401 West 19th Street, Cheyenne, WY 82002, PH: (307) 777–7937, (*Entire Application*)

The Hearing will be held in Room CE203 (Victorian Room), College Center, Casper College, 125 College Drive, Casper, Wyoming.

FOR FURTHER INFORMATION CONTACT: Patrick Crotty, Chief, Colorado/North Dakota/Wyoming Section, Drinking Water Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln St., Denver, Colorado 80295, (303) 837–2731.

SUPPLEMENTARY INFORMATION: The application from the Wyoming and Gas Conservation Commission is for the regulation of all Class II injection wells in the State. The application from the Wyoming Department of Environmental Quality is for the regulation of all Classes I, III, IV and V injection wells in the State. The applications include program descriptions, copies of all applicable rules and forms, a statement of legal authority and appropriate memoranda of agreement.

Dated: March 8, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82–6828 Filed 3–11–82; 8:45 am]

BILLING CODE 6560–38–M

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1510

National Oil and Hazardous Substances Pollution Contingency Plan

Cross Reference: For a document issued by the Environmental Protection Agency, regarding the proposed transfer of Council on Environmental Quality regulations on national oil and hazardous substances pollution contingency plan to the Environmental Protection Agency, see FR Doc. 82–6315 published in the Proposed Rules section of this issue. Refer to the table of contents under "Environmental Protection Agency" to determine the appropriate page number.

BILLING CODE 6560–26–M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[General Order 13 Revised; Docket No. 82–13]

Exemption of Bulk Cargo Moving in the Foreign Commerce of the United States From the Tariff Filing Requirements of Section 18(b) of the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This would exempt certain bulk commodities loaded and carried by liner operators in containers, trailers, rail cars or similar intermodal equipment from the tariff filing requirements of the Shipping Act, 1916. Such exemption appears warranted because identical cargoes when carried by tramp operators are not subject to such requirements. The Commission is also soliciting comments on alternative proposals to exempt other or all bulk commodities from such tariff filing requirements.

DATE: Comments must be submitted on or before April 12, 1982.

ADDRESS: Comments (original and 15 copies) to: Francis C. Hurney, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Federal Maritime Commission, 1100 L. Street, NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: By separate Notice served this date, the Commission is issuing an Intepretative Rule which provides that bulk cargo loaded into a container or similar intermodal equipment (except LASH or Seabee barges) is "loaded with mark or count" and therefore subject to the tariff filing requirements of the section 18(b)(1) of the Shipping Act, 1916 (46 U.S.C. 817(b)(1)). Docket 80–70, *Proposed Interpretative Rule, Status of Bulk Commodities.* However, the Commission stayed the effective date of

this Interpretative Rule until a review of the feasibility of exempting all or some bulk commodities from section 18(b)(1) requirements could be completed pursuant to section 35 of the Act (46 U.S.C. 833a). This proceeding is intended to provide that review.

Comments received in response to Docket No. 80–70 indicated that certain types of bulk commodities are carried both by liner operators, in containers, and by non-liner, tramp operators. These commodities, which are generally unprocessed and have homogenous characteristics, are used by liner operators to fill unbooked space which might otherwise remain empty. Because liner operators must compete with tramps for such cargoes, they could be adversely affected if they were required to file rates in their tariffs for the carriage of such commodities or otherwise meet the requirements of section 18(b). The Commission is now proposing a rule which would exempt this type of bulk commodity from the tariff filing requirements of section 18(b).

However, this proposed rule would not apply to such commodities as wine or spirits, metal or textile scrap, chemicals, oils, animal food, or fertilizer, since they are processed and do not generally appear to be carried by tramp operators. Under the proposed rule, they would thus continue to be subject to the tariff filing requirements of section 18(b). However, the Commission is not precluding the exemption of this type of bulk commodity loaded in containers or similar intermodal equipment, if comments persuade it that such action is warranted.

Commenting parties are therefore invited to also address this matter in their submissions.

This proposed exemption would eliminate the tariff filing requirements for ocean common carriers which transport certain bulk commodities in intermodal equipment. The primary beneficiaries of this exemption are vessel operating common carriers who are generally not "small entities" within the meaning of 5 U.S.C. 601. Small entities, *i.e.*, certain shippers, may enjoy a secondary benefit from the proposed rule. However, it is not foreseen that this will amount to a significant economic impact on these interests.

PART 536—PUBLISHING AND FILING TARIFFS BY COMMON CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

Therefore, pursuant to sections 18(b) and 35 of the Shipping Act, 1916 (46 U.S.C. 817 and 833a) and 5 U.S.C. 553, the Commission proposes to amend 46 CFR Part 536 by the addition of the following exemption.

Section 536.1 is amended by adding new paragraph (a)(8) to read as follows:

§ 536.1 [Amended]

(a) * * *

(8) Transportation of bulk cargo moving by water in the foreign commerce of the United States which is loaded and carried aboard liner vessels in containers, trailers, rail cars or similar intermodal equipment. For the purposes of this section "bulk cargo" means those commodities which are in a loose, unpackaged form, have homogeneous characteristics and are unprocessed from their natural state or not further manufactured.

* * * * *

Alternatively, the Commission will consider the exemption of other or all bulk cargo carried aboard vessels in containers, trailers, rail cars, or similar intermodal equipment.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82–6712 Filed 3–11–82; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 82–122; FCC 82–102]

Interconnection Arrangements Between and Among the Domestic and International Record Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice of Proposed Rulemaking requests public comment on Commission imposition of interconnection arrangements between Western Union and U.S. international record carriers for the purpose of promoting fully competitive markets for domestic and international record communications services. It is issued pursuant to the Commission's responsibilities under the Record Carrier Competition Act of 1981.

DATES: Comments shall be filed on or before March 10, 1982, and reply comments on or before March 17, 1982.

ADDRESS: Comments and replies should be submitted to: The Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James L. Ball/Stuart Chiron, International Facilities Authorization & Licensing Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632–7265.

SUPPLEMENTARY INFORMATION:

Adopted: February 25, 1982.

Released: March 3, 1982.

In the matter of interconnection arrangements between and among the domestic and international record carriers, CC Docket No. 82–122.

I. The Legislation

1. The Record Carrier Competition Act of 1981 (the Act) became law on December 29, 1981.[1] The Act amends Section 222 of the Communications Act of 1934 to eliminate the statutory bar on the provision of international record services by the Western Union Telegraph Company (WU). In addition to setting aside a long standing barrier to increased competition in the international record market, the Act generally requires the Commission to promote the development of fully competitive domestic and international markets in the provision of communications services and prohibits record carriers from imposing on users of any regulated record communications services the costs of any other services.[2]

2. Section 222(c)(1)(A)(i) directs the Commission to "require each record carrier to make available to any other record carrier, upon reasonable request, full interconnection with any facility operated by such record carrier, and used primarily to provide record communications service. Such facility shall be made available, through written agreement, upon terms and conditions which are just, fair, and reasonable, and which are otherwise consistent with the purpose of this section." To this end section 222(c)(3)(A) requires the Commission to convene, monitor and preside over interconnection negotiations between and among the domestic and international record carriers (IRCs).[3]

3. The legislation requires the Commission to convene a meeting between the "primary existing IRCs" and the domestic "record carrier" within

[1] Pub. L. 97–130, 95 Stat. 1687 (1981). The Act, which totally amends section 222, appears as Appendix A. (Filed as a part of the original document.)

[2] See sections 222 (b)(1) and (b)(2) as revised by the Act.

[3] The primary existing IRCs participating in these negotiations are: RCA Global Communications, Inc. (RCAG), ITT World Communications Inc. (ITTWC), Western Union International, Inc. (WUI), TRT Telecommunications Corporations (TRT) and FTC Communications, Inc. (FTC). Graphnet Systems, Inc. (Graphnet) and WU are participating as domestic record carriers.

15 days of enactment for the purpose of negotiating an interconnection agreement. The Act provides that if the domestic record carrier subject to the interconnection requirement (WU) and a majority of the primary existing IRCs do not reach an agreement within 45 days of the first meeting date, then the Commission is to prescribe an interconnection agreement no later than 90 days after the initial interconnection meeting. However, if the domestic record carrier and a majority of the primary existing IRCs subsequently reach agreement before the issuance of an interconnection order by the Commission, then the Commission need not issue its order and the parties' agreement would take effect. Most of the provisions of revised section 222 concerning interconnection "sunset" after three years. Any extension of the interconnection arrangements after three years would be evaluated by the Commission under section 201 of the Communications Act.

4. The initial meeting was held on January 8, 1982.[4] The 45 day period for a carrier agreement will expire on February 22, 1982. The 90 day period for a Commission prescribed agreement will expire on April 8, 1982. This Notice of Proposed Rulemaking is issued pursuant to the Act and as a result of the parties' inability to reach an interconnection accord. We strongly urge the parties to continue to negotiate and reach an agreement prior to the issuance of an interconnection order by the Commission.

5. During the negotiations the parties presented proposals relating to interconnection costs, rates, locations, technical requirements, billing procedures and access schemes. These proposals appear generally in File No. I–S–P–82–002.[5] The parties also offered various interpretations of the Act, discussed the issue of inherent cost savings involved with carrier-to-carrier interconnection and made proposals as to the allocation of revenues for domestic and international inter-network (interconnected) transmissions. To assist all interested entities in submitting comments on the various issues presented in this proceeding, the existing networks, rates and interconnection arrangements, as well as proposed interconnection arrangements, are described below.

II. Existing Networks, Rates, Interconnection Arrangements and Access

6. WU currently offers domestic telex and TWX (sometimes referred to as telex II) service over an integrated switched network.[6] The IRCs currently provide the U.S. portion of international record service between various points in the continental United States and overseas points. WU's telex customers pay a distance insensitive (postalized) rate of 34.75¢ per minute for an intra-network (non-interconnected) transmission. WU's TWX customers pay a postalized rate of 43¢ per minute for an intra-network transmission. Customers connected to an IRC network are charged a postalized rate for outbound international transmissions which varies for each overseas destination. Inter-network (interconnected) transmissions currently result in the payment of two postalized charges, usually referred to as an end-on-end rate. Thus, a WU telex or TWX customer accessing an IRC switch for an outbound international transmission pays the WU domestic postalized rate plus the IRC international postalized rate. An IRC customer directly accessing the IRC switch pays only the IRC postalized rate. For inbound international telex traffic the foreign correspondent sets the collection rate, collects this amount from its customer and pays the interconnecting IRC pursuant to settlement and accounting agreements.[7] The IRC then delivers the call to its customer (no charge involved) or hands the call off to a domestic carrier for delivery to its customer at that carrier's domestic transmission rate (34.75¢ for WU) which is paid by the IRC.

7. Currently, WU offers only domestic service and the IRCs offer only international service.[8] WU and the IRCs interconnect ony for the delivery/acceptance of international inbound/outbound traffic.There is no WU–IRC interconnection for domestic service. There are interconnection and transiting arrangements among the IRCs for the handing-off of outbound international traffic in cases where an IRC lacks an operating agreement to serve a particular overseas point. Graphnet provides a limited domestic service and has contracted with the IRCs to deliver international inbound telegam massages. Graphnet also interconnects with both Western Union and the IRCs for the provision of domestic and international services.

8. WU and IRC intra-network calls can be completed employing a single stage dialing (access) procedure. A customer is already "plugged in" to a carrier's network and reaches another party on the same network by dialing that customer's number. Inter-network calls between the WU and IRC systems require coordination between two distinct networks and generally require a two stage dialing procedure. In the first stage the customer would access the second network by dialing the second network's access code. In the second stage the customer would transmit the called party's number to the second carrier and that carrier would route the call to the desired party. Thus, for an outbound international call, a WU

[4] Subsequent meetings between the parties were held on January 20, 25, and 29 and February 4, 8, 12, 18, 22, and 23, 1982. All meetings were presided over and monitored by the Commission. Additionally, a technical committee was established by the parties to resolve various engineering problems.

[5] The negotiating parties raised several questions regarding the statute's meaning and Congress' intent. Areas of conflicting or uncertain interpretation include: (1) the type of traffic which would be subject to the "pro rata share" language of section 222(c)(1)(A)(ii); (2) whether a domestic carrier is entitled to share bearer circuits with an IRC under section 222(c)(1)(A)(ii); (3) whether the interconnection required in section 222(c)(1)(B) should be interpreted to mandate absolute or general equality; (4) whether FTC has a significant market share under section 222(c)(1)(B); and (5) the establishment of a nondiscriminatory formula for the equitable allocation of revenues and the determination of who is the originating carrier for an international outbound transmission under section 222(c)(2).

[6] Telex and TWX are both switched network services. A telex subscriber has the a bility to dial any other subscriber on the telex network to establish direct, real time, two-way communications in the typewritten or data mode. A TWX subscriber has a similar ability to dial any other TWX subscriber. Although the two services employ different codes and are transmitted at different speeds, telex and TWX subscribers may "talk" to each other via WU's Informaster computer. Telex is available worldwide and is oriented toward message use. TWX is available only in Canada and the U.S. and is well suited for low speed data transmission.

[7] Before a U.S. carrier can operate a direct international service to a particular overseas point, it must enter into an operating agreement with the foreign telecommunications administration. The agreement indicates the terms and conditions under which the carrier may interconnect and gain access to the foreign nation's domestic telecommunications network. The parties establish an accounting rate (a figure for each unit of service which the carriers use to pay for the other's service) and a settlement rate (division of the accounting rate, ordinarily 50/50). After inbound and outbound traffic volumes are totalled, the carriers calculate the net traffic yields and the amount due or owed pursuant to the accounting and settlement rates. The settlement rate includes specific currency conversion levels to facilitate a final accounting. While a U.S. carriers's rate to the public (the collection rate) is established by that carrier and may vary, all carriers providing service to the same overseas point have identical accounting and settlement rates with the foreign administration to prevent "whipsawing" by that foreign administration. See *Uniform Settlement Rates on Parallel International Communications Routes*, 66 F.C.C. 2d 359, (1977), 84 F.C.C. 2d 121 (1980).

[8] The five primary existing IRCs were authorized to provide wholly domestic non-voice services on December 17, 1981. *RCA Global Communica-tions, Inc. et al.*, FCC Order 81–577 (released January 11, 1982) however, their tariffs for these services have not yet gone into effect.

customer would access an IRC (a three digit number, 10X, would be dialed) as the first stage and then transmit to the IRC as the second stage the country code, the number of the called party and any special transmission instructions.

III. IRC's Proposals [9]

9. At the outset of the interconnection negotiations the IRCs reached a general consensus on several points and endorsed in principle an interconnection agreement recently entered into by RCAG and ITTIWC as the model for interconnection with WU. The IRCs also supported an allocation of revenues proposal presented by RCAG. The major points of the IRCs' initial position are summarized below.

(a) Discussion of the terms and conditions of domestic interconnection should precede discussion of international interconnection matters.

(b) Technical and engineering factors such as interconnection at particular hierarchies of WU's network, locations for interconnection and cost and type of interfacing facilities for interconnection are secondary and therefore primary attention should be focused on allocation of revenue issues.

(c) The end-on-end rate concept is unacceptable because, in a direct competitive environment, inter-network service would rarely be priced below intra-network services. WU cannot be permited to exploit its 140,000 teleprinter advantage and its previous monopoly position to maintain and acquire market shares.

(d) For domestic telex interconnection the IRCs support a 20¢ accounting rate and a 50/50 settlement rate. Under this proposal the originating carrier would set the tariff rate and the terminating carrier would receive 10¢ (20¢/2). In addition to establishing the collection rate, the originating carrier would bill the customer, collect from the customer and pay the terminating domestic carrier.[10]

(e) For international outbound telex traffic employing more than one U.S. carrier, RCAG proposes that the carrier over whose network or facilities the transmission is initiated receive 25¢ per minute, the amount equal to that retained by the originating carrier for a domestic interconnection. The carrier to whom the transmission is handed-off for international carriage and delivery to a foreign correspondent would be the originating carrier and establish the collection rate, bill the customer and particiate in the accounting/settlement procedures with the overseas entity. Interconnection between U.S. carriers for the transmission of outbound telex traffic would occur if the customer desired the second carrier to be responsible for the international segment of the transmission or it the initiating carrier lacked an operating agreement with the foreign correspondent involved.

(f) For international inbound telex traffic employing more than one U.S. carrier, RCAG proposes that the U.S. carrier receiving the traffic from the overseas entity participate in the international accounting/settlement procedures. The carrier delivering the traffic would receive 10¢, the amount allocated to the terminating carrier for a domestic interconnection transmission. Interconnection between U.S. carriers for the transmission of inbound telex traffic would occur if the foreign customer desired the second carrier to be responsible for the domestic segment of the transmission or if the transmission recipient was not on the first carrier's network.

(g) Interconnection should promote conscious customer selection without financial disincentives. Hence, the determination of which carrier is the originating carrier for international outbound transmissions and authorized to share in the larger revenue pot established by international accounting rates should be a function of customer selection. An international outbound telex call should be considered to originate from the carrier making overseas delivery regardless of which carrier provided the teleprinter or tie-line.

(h) Telex access codes are business addresses and must be preserved. Universal dial-up access from any one terminal is essential and hence a standardized code format must be maintained. Interconnected customers need not receive the same type of access as tie-line (intra-network) customers.

IV. WU's Proposal

10. WU's initial position is that equal interconnection and universal access must include international as well as domestic features with no presumed negotiation preference for domestic matters first; that the originating carrier should establish and tariff the rate for both domestic and international traffic originating on its network; and that the terminating carrier should receive revenues fully compensating it for carriage services. The major points of WU's counter-proposal as to division of revenues are outlined below.

(a) In an interconnection situation the originating carrier establishes the collection rate, bills the customer and collects from the customer.

(b) In an interconnection situation the terminating carrier is entitled to recoup its costs through revenue settlements with the originating carrier.

(c) The originating carrier must pay the terminating carrier that carrier's costs and may recover its own costs by setting a sufficiently high rate to the public.

(d) The initiation of a telex transmission by a customer employing a particular carrier's terminal or tie-line would establish that carrier as the originating carrier.

(e) WU's costs: WU claims that 34.75¢ per minute covers its cost to: (1) route a domestic telex transmission entirely over its own network; (2) terminate on its network a domestic telex transmission originating on another network; (3) originate a domestic telex transmission terminating on another network; (4) deliver an outbound international telex transmission from a customer on its network to an IRC; and (5) deliver an inbound international telex transmission to a customer on its network from an IRC. (Thus, WU maintains that no appreciable or identifiable cost savings exist for transmissions that do not both originate and terminate on its domestic network.)

(f) Domestic competition: For an interconnected domestic transmission the originating carrier would establish the collection rate, bill the customer, collect the rate from the customer and pay the terminating carrier that carrier's costs. Competition would be provided by the originating carrier setting its collection rate at or near what another originating carrier would charge. Any carrier able to reduce its costs would make its network more marketable.

(g) International competiton: For an interconnected international transmission the originating carrier (the first U.S. carrier) would establish the entire collection rate, bill the customer, collect the rate from the customer and pay the international carrier (the second U.S. carrier) that carrier's costs. The carrier providing the overseas segment would include in its costs all sums payable to the foreign correspondent as a result of international accounting and settlement agreements. The amount, if any, of the collection rate added on by the originating carrier to cover its own costs (the amount by which the

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[9] The on-going nature of the negotiations and the lead time needed to prepare, release and publish an NPRM precludes the full presentation here of any party's position other than its initial proposal.

[10] WU's approximate current rate and the rate proposed by IRCs in their recently filed domestic telex tariffs is 35¢ per minute. Utilizing a collection rate of 35¢, a 20¢ accounting rate and a 50/50 settlement rate, the originating carrier would receive 25¢ (35¢ − 20¢ + 20¢/2) and the terminating carrier would receive 10¢ (20¢/2).

collection rate exceeds the interconnected international carrier's costs) on a particular route would be the same (non-discriminatory) for all interconnecting international carriers. Competition among originating carriers would be provided by an originating carrier reducing the portion of the collection rate allocated to domestic carriage to a level at or near what other carriers charge for domestic carriage. Competition among the international carriers would be provided by an international carrier reducing its rates for the international carriage segment. Any such reduction by an international carrier would be reflected in the originating carrier's tariff for service through that particular international carrier to a particular overseas point. Thus, the originating carrier would have a distinct through rate to a particular overseas point for each interconnected international carrier consisting of a domestic and an international component. The domestic carrier would bill the customer for the total number of minutes its system was used.

V. Discussion

A. Introduction

11. At the outset, we emphasize that any interconnection order we impose will include interconnection guidelines for both domestic and international record communications. We also emphasize that any interconnection order will attempt to preserve service quality to the public, maximize the ability of market forces to govern the variety and price of available services and facilities, and create incentives for the entry of the IRCs into the domestic market and of WU into the international market. Below we analyze the Act, indicate how our statutory interpretations effect the various technical and financial issues, and reach several tentative conclusions.

B. The Act

12. While several key sections of the Act were interpreted differently by the negotiating parties, there was little dispute over most provisions. The parties generally accepted a number of concepts as being Congress' intent, encompassed in the legislation and reflected in the Energy and Commerce Committee Report of the House of Representatives: [11] reliance on competition (section 222(b)(1)); an explicit ban on cross-subsidization (section 222(b)(2)); full interconnection on terms and conditions which are just, fair, and reasonable (section 222(c)(1)(A)(i)); pro rata distributions of inbound traffic to interconnected carriers initiating outbound traffic to facilitate market entry (section 222(c)(1)(A)(ii)); the unbundling of domestic and international carriage as if the domestic and international operations of a carrier were being provided by two separate entities (section 222(c)(1)(B)); equitable allocation of revenues for interconnected transmissions based on costs of services and facilities employed on the terminating carrier's network (section 222(c)(2)); mandated interconnection negotiations (section 222(c)(3)); and a moratorium on the Commission's authority to take any final action on a WU application to provide international service (section 222(c)(5)).

13. In addition, the parties generally agreed that for a domestic inter-network transmission the "originating carrier", the carrier on whose network the calling party initiates the call, would tariff the rate, bill the calling party, collect the entire through rate from the calling party and pay the "terminating carrier" that carrier's costs. It was also accepted by the parties that for an international inbound transmission requiring interconnection by two U.S. carriers to effectuate delivery, the U.S. carrier receiving the transmission from the overseas administration would participate in the international settlement and accounting procedure, hand-off the transmission to a second U.S. carrier for domestic delivery, and pay the domestic carrier its terminating costs. The parties also agreed that inbound international traffic, in cases where a called party in the U.S. had more than one terminal, should generally be handed-off to the domestic carrier selected by the overseas party. The parties reached no general consensus regarding the handling of international soutbound traffic, the determination of an interconnected carrier's costs, and the resolution of several technical interconnection issues.

14. During the negotiations the discussions focused on four major areas of disagreement. First, the carriers could not agree whether the language of sections 222(c)(1)(B) (ii) and (iii), requiring any interconnection between a carrier's separate domestic and international segments to be "equal in type and quality" with the interconnection furnished to other domestic or international service providers, mandated general or absolute equality in all dialing and technical access features. Second, no agreement was reached regarding which U.S. carrier would act as the originating carrier for outbound international transmissions. WU proposed that each domestic service provider would tariff several through rates composed of a variable international component set by each international carrier and a nondiscriminatory domestic component set by the domestic carrier on whose network the calling party was located. The domestic carrier would bill the calling party and pay the international carrier its costs. The IRCs proposed that the international service provider should tariff the through rate, bill the calling party and pay the domestic service provider its initiating costs. Third, while all the negotiating parties agreed that the terminating carrier would be entitled to recoup its interconnection costs from the originating carrier, they could not agree on a particular fixed cost figure or a costing methodology which could determine such a figure. Finally, the carriers could not agree as to exactly what traffic categories should be included in the pro rata allocation of inbound traffic required by section 222(c)(1)(A)(ii), how that allocation would be made, and whether a domestic carrier had a statutory right under this section to share bearer circuits with an international carrier to overseas points.

15. Set forth below are our tentative conclusions and proposals in each of these four areas.

1. *Equal in Type and Quality.*

16. Section 222(c)(1)(B) provides as follows:

(B) The Commission shall require that—

(i) If any record carrier engages both in the offering for hire of domestic record communications services and in the offering for hire of international record communications services, then such record carrier shall be treated as a separate domestic record carrier and a separate international record carrier for purposes of administering interconnection requirements;

(ii) In any case in which such separate domestic record carrier furnishes interconnection to such separate international record carrier, any interconnection which such separate domestic record carrier furnishes to other international record carriers shall be (I) *equal in type and quality;* and (II) made available at the same rates and upon the same terms and conditions; and

(iii) In any case in which such separate international record carrier furnishes interconnection to such separate domestic record carrier, any interconnection which such separate international record carrier furnishes to other domestic record carriers shall be

[11] Report No. 97-356, 97th Cong. 1st Sess. (Dec. 3, 1981) (Hereinafter cited as Commitee Report).

(I) *equal in type and quality;* and (II) made available at the same rates and upon the same terms and conditions.

The requirements of clauses (i), (ii), and (iii) shall not apply to a record carrier if such record carrier does not have a significant share of the market for record communications services (emphasis added).[12]

17. The issue raised by the parties regarding section 222(c)(1)(B) is whether it requires absolute equality in the type and quality of access (customer dialing and network engineering) between a carrier's domestic and international segments, on the one hand, and between one carrier's domestic or international segment and another and another carrier's international or domestic segment, on the other hand. For example, must ITTWC's domestic segment interconnect with RCAG's international segment in exactly the same manner as it interconnects with its own international segment. For the reasons found below we tentatively conclude that section 222(c)(1)(B) requires general but not absolute equality in the type and quality of interconnection provided.

18. As described in paragraphs 6 through 8 above, both domestic and international intra-network transmissions presently employ single stage dialing while inter-network transmissions generally require two dialing stages. Thus, a WU customer initiating a call to another WU customer merely dials the called party's number in one stage. Similarly, an IRC customer reaches an overseas party by dialing a country code and the number of the called party all in one stage. Any interconnection between networks, WU–IRC, now requires two stage dialing. A reading of the separate carrier lanquage of the section to require absolute equality in dialing access would require a customer on an IRC network desiring to make an intra-network international call to reach the called party in exactly the same number of dialing stages that an inter-network international call would require. This could effectively terminate single stage dialing for international transmissions if the carriers do not now possess the technology or equipment to initiate single stage dialing for all inter-network international calls. As a corollary, universal two stage dialing could require customers making intra-network international calls to dial unnecessary dummy digits and perhaps have their transmissions routed through additional switches. From the negotiations it appears that both intra-network and inter-network domestic transmissions can be completed in one stage with an equal number of digits dialed.

19. The WU domestic network provides approximately half of its telex and all of its TWX service through a digital exchange system (DES) which can be described as the positioning of four fully interconnected, multi-level switching centers with traffic routed through one of the four main DES switching sites. Employing computers and programmable front end (PFE) equipment, a transmission from the telex or TWX subscriber is routed over a number of concentration, multiplexing and modem devices to a PFE at a DES site. The transmission is then routed to the called party through the same PFE, a PFE within the same DES site or to a PFE at a different DES site. The IRCs' systems, which directly serve a much smaller number of customers than WU's system, utilize a single major switching center which performs all the necessary conversion and routing functions. These networks are not identical and possess different switching and routing capabilities and characteristics. Absolute equality of type and quality of interconnection could require modification of existing systems to satisfy a statutory argument rather than significantly improve service. WU has proposed to route all of its intra-network traffic, both domestic and international, through its DES sites. WU has also proposed, for system capacity reasons, to limit access to the DES network for some types of inter-carrier traffic. Unless such a routing lessens the quality of service to the customer we would view it as providing general equality in type and quality of interconnection.

20. We tentatively conclude that a statutory interpretation of section 222 (c)(1)(B) which would require the inclusion of unnecessary dialing stages or digits, the discontinuance of a convenient and desirable service and the routing of messages in more ciruitous routes or through unnecessary switches, is not required by the Act. Requiring absolute equality in type and quality of interconnection for different systems would inhibit rather than promote competition, would degrade rather than improve service, would promote inefficiency rather than efficiency, would cause customer confusion, and would be contrary to the public interest and our goal of making available adequate facilities to all users at reasonable rates. We therefore read section 222 (c)(1)(B) to require general rather than absolute equality in the type and quality of interconnection. However, we expect carriers to interconnect in the most efficient manner reasonably available to decrease the number of required dialing stages, digits and equipment,[13] and to interconnect at the same rates and upon the same terms and conditions as with their intra-network segments. We emphasize that general equality requires parity except in those cases where: (1) parity could only be achieved through an unreasonably expensive system modification; (2) parity could not be achieved due to technological or equipment availability impossibilities; or (3) parity could only be obtained through an unreasonable degradation of service.

2. *Originating/Terminating Carrier Determination*

21. Section 222(c)(2) calls for the establishment of a non-discriminatory formula for the equitable allocation of revenues derived from inter-carrier services. This provision has generated two major controversies among the negotiating parties. First, which carrier should, for outbound international interconnected traffic, set the tariffed rate, bill and collect from the customer, and make an equitable allocation of revenues with the other participating U.S. carrier. Second, what are the network costs for terminating or initiating a through service transmission, i.e., what are the costs which the non-originating carrier is entitled to recoup? We address these issues below.

22. For a non-interconnected (intra-network) domestic transmission a carrier both originates and terminates the call. The carrier provides all the facilities, exercises full control over the service, calculates the costs, establishes the tariffed rate, bills its customer and collects the rate from that customer. For an interconnected (inter-network) domestic transmission the carrier providing direct service and access to the calling party is the originating carrier and, in addition to performing the originating carrier functions described above, pays the terminating carrier that carrier's costs. For an inbound international transmission the foreign correspondent acts as the originating carrier. If only one U.S.

[12] We note that all domestic intra-network transmissions fall outside this section of the Act. All international transmissions, both inter-network and intra-network, have domestic and international segments and are within section 222(c)(1)(B). All inter-network transmissions are within section 222(c)(1)(A)(i). We tentatively conclude that WU and all five primary existing international record carriers have significant market shares and must comply with the separate carrier segment requirement.

[13] During the mid-February negotiating sessions the technical feasibility of one stage IRC–WU inter-network access was discussed.

carrier is involved in accepting and delivering an inbound international transmission then no interconnection occurs between U.S. carriers and the accepting carrier will settle with the foreign correspondent. If two U.S. carriers are required to effectuate delivery to the called party, then the U.S. international carrier will interconnect with a U.S. domestic carrier. The U.S. international carrier settles with the foreign correspondent and pays the other U.S. carrier that carrier's costs. We tentatively conclude that the above arrangements which are currently practiced by the negotiating parties, to be reasonable and worthy of continuance.

23. For interconnected outbound international transmissions, two U.S. carriers' networks are employed. At present an interconnected outbound international transmission (WU–IRC) is treated as having distinct domestic and international segments. The domestic and international carrier each tariffs its service, bills the customer for its service and collects for its service. With the complete unbundling of domestic carriage by the parties pursuant to section 222(c)(1)(B) [14] and the future development of additional through service options and competition, the negotiating parties viewed the carrier entitled to tariff the through outbound service, bill, collect, and settle with the foreign correspondent as obtaining a marketing advantage over the interconnected U.S. carrier. As described in the parties' proposals, WU and the IRCs each presented detailed plans in which the domestic (WU's proposal) or international (the IRCs' proposal) carrier would act as the outbound "originating carrier." Three approaches were explored by the negotiating parties. First, permit separate domestic and international tariffs and billings as now exist. Second, permit the domestic carrier to tariff and bill the through rates as recommended by WU. In this proposal the interconnected IRC would receive its costs, including the settlement amount, from the domestic carrier. Third, permit the U.S. international carrier to tariff and bill the through rates as recommended by the IRCs. In this proposal the domestic carrier would receive its costs from the international carrier.

24. We tentatively conclude that the third option would best serve the public interest. We reject the first option, the status quo proposal, as being inconsistent with the intent of the Act and as imposing duplicative administrative costs on carriers and inconveniences on users. Our preference for the third approach is based on the important role played by the IRCs in the international record market as the procurers of operating agreements, the perception of users that they are generally selecting an IRC rather than WU for outbound service, and certain technical and billing problems which may arise if WU is the originating carrier. Traditionally, the international carrier for outbound traffic has been the entity which possesses an operating agreement with a foreign administration setting out the terms and conditions for international interconnection. The foreign administration negotiates settlement and accounting rates with the IRCs, looks to the IRCs to settle any disputes, and coordinates with the IRCs in the establishment of internationally acceptable operating standards and tariff procedures.[15] Secondly, users view international traffic as the responsibility of the international service provider of their choice. Thus, in a sense, users perceive WU as the necessary conduit for the domestic haul to their chosen IRC. Thirdly, certain problems seemed to surround WU's proposal as to its ability to serve as the IRCs' collection and billing agent. Questions arose as to whether WU: (1) could correctly bill a customer's non-real time store-and-forward traffic, multiple transmissions and some specially routed/instructed calls; (2) should introduce additional switches into a network to merely duplicate existing monitoring functions; and (3) should be given access to arguably proprietary IRC customer information.[16] These problems apparently would not exist if the billing was done by the IRCs as is presently the practice.

3. *Cost Allocation.*

25. Both section 222(c)(2) and the Committee Report indicate that Congress sought to insure that: (1) the terminating carrier would recoup its costs through the allocation of revenues; and (2) the originating carrier would be free to recover its costs by setting a rate to the public that is sufficient to pay the terminating carrier that carrier's costs plus cover its own costs.[17] There are three interconnection situations in which a carrier would be entitled to recoup its costs from another carrier: (1) the terminating carrier for a domestic inter-network transmission; (2) the second or delivering U.S. carrier for an international inbound inter-network transmission; and (3) the domestic carrier for an international outbound inter-network transmission. Although the negotiating parties failed to reach an agreement as to a fixed cost figure or to a costing methodology, it was generally accepted that all three costs described above would be approximately the same.

26. The determination of carrier costs was and remains the major unresolved issue in the negotiations. WU states that its current postalized rate covers its fully averaged and allocated costs for any originating, terminating, or originating and terminating transmission. The IRCs, pointing to language in the Committee Report, argue that "there are certain cost savings which are inherent in carrier-to-carrier interconnection (as opposed to customer-to-customer interconnections), and that some suitable discount for carrier-to-carrier interconnection will become part of the agreement." [18] However, the Committee Report neither identifies the areas of cost savings nor quantifies the amount saved. The IRCs also indicate, like WU, that their tariffs are cost-based.

27. The IRCs argue that entering the WU network at the top of that system's switching hierarchy should result in a class of calls for which WU's costs of carriage to the called parties are less than its current average cost. WU now routes a transmission from a calling party up its network hierarchy to a PFE and then back down its network hierarchy to the called party. The IRCs propose to interconnect at the PFEs. Thus, WU would accept the transmission at the PFE and route the message to the called party. The IRCs argue that by not employing one transmission leg WU's costs are reduced and that this inherent savings or discount must be passed on to them. The IRCs also allege lower administrative, marketing, maintenance, conversion and switching costs.

[14] In our *Gateways* and *Telex Unbundling* Orders we unbundled terminal equipment and the local loop but not carriage from a point of operation to a point of exit from the United States. See *International Record Carriers' Scope of Operations (Gateways)*, 76 F.C.C. 2d 115 (1980) *aff'd sub nom. Western Union Telegraph Company v. FCC*, No. 79–2494, slip op. (D.C. Cir. Sept. 3, 1981) and *Interface of the International Telex Service with the Domestic Telex and TWX Services (Telex Unbundling)*, 76 F.C.C. 2d 61 (1980) *aff'd sub nom. Western Union Telegraph Company v. FCC*, No. 79–2494, slip op. (D.C. Cir. Sept. 3, 1981).

[15] As an example, the IRCs actively participate in establishing the U.S. positions in various international organizations such as CCITT and CCIR.

[16] Of course, at some future date we anticipate that WU will provide international carriage as an IRC and the IRCs will originate additional domestic traffic.

[17] Committee Report, page 11.

[18] Committee Report, page 11.

28. The question of whether there are cost savings resulting from WU–RIC interconnection which justify a discount below WU's publicly tariffed rate of 34.75 cents per minute for telex calls and 43 cents per minute for TWX calls is the subject of the current evidentiary hearing in Docket No. 78–97.[19] In initiating Docket No. 78–97, we indicated that it appears the costs for intra-network (WU) telex and TWX services are essentially the same as the costs for inter-network (WU–IRC) telex and TWX services. (68 F.C.C. 2d at 116.) We stated that the only cost differences which can be shown to exist "are minor from an overall system point of view * * *" (68 F.C.C. 2d at 116). We noted that the aggregation of trunk engineering, switching configuration and call routing within a consolidated WU network tends to obscure the exact cost of any particular call or type of calls. We stated:

> It is the basic switched network, comprised principally of trunks, switches, access lines, and terminal equipment, which accounts for the preponderance of the capital costs of providing this service. Other than the normal customer-to-customer differences in community of interest or calling patterns, geographical dispersion, and the like, we find no basis for concluding that a call which transits the domestic switched network for ultimate connection with an overseas terminal has cost functions inherently different from those which are destined to points within the contiguous forty-eight states. (68 F.C.C. 2d at 116.)

The Common Carrier Bureau's separated trial staff also appears to have come to this conclusion based on its analysis of the record established in Docket No. 78–97. The trial staff concludes in its Proposed Findings of Fact and Conclusions of Law that "[t]here is no credible evidence of record that there are significant cost differences between the service provided to the IRCs and that provided to domestic Telex users." (At page 70.)

29. In addition, the aggregation of engineering, switching and routing factors in WU's network, and the manner in which WU averages its costs to develop its current distance insensitive (postalized) rate scheme may further obscure any savings that may result from carrier-to-carrier interconnection. This question will be the subject of further proceedings in Docket No. 78–97.[20]

30. In view of the pendency of Docket No. 78–97, we seek an interim solution to the issue of a discount rate for WU–IRC interconnected services in this proceeding.[21] We believe that a final decision on this issue should be made on the basis of the record that is being developed in Docket No. 78–97. In this proceeding we will consider whether the concept of carrier-to-carrier interconnected services will result in savings that justify a discount. As in Docket No. 78–97, we will maintain the presumption that WU's public tariff is lawful. The parties, of course, have the opportunity in this proceeding to demonstrate that a discount should be prescribed on an interim basis. To do so, they have the burden of production to show specific areas of cost savings that justify deviation from WU's publicly tariffed rate.[22] In addition, they must provide cost data upon which the Commission can determine that discount. Absent such information, we will not be in a position to conclude in this proceeding that an interim discount is justified.

4. *Pro Rata Traffic Distribution and Shared Bearer Circuits.*

31. Section 222(c)(1)(A)(ii)(I) recognizes that a foreign administration may decide not to enter into operating agreements with all U.S. carriers desiring to provide through international service. Thus, this section requires a carrier receiving international outbound traffic from another carrier to route a pro rata share of its international inbound traffic to that carrier for domestic delivery. As stated in the Committee Report:

> In other words, if a carrier's level of return traffic is increased due to an increased level of outbound traffic generated by another U.S. international carrier, then this benefit should be passed along to the carrier that generated the increased level of traffic.[23]

32. The purposes of this section are to facilitate entry into the domestic and international marketplaces and to decrease the competitive disadvantage a carrier without operating agreements has with respect to a carrier with operating agreements. We therefore tentatively conclude that this section should be interpreted to include all types of record communications services except as excluded by section 222 (c)(1)(A)(ii)(II) and to require an allocation system to be established which fully rewards the carrier generating the handed-off traffic. We make no conclusions at this time as to the details of such a traffic allocation arrangement.[24]

33. Graphnet, in order to expand the availability of its international record services, invokes section 222 (c)(1)(A)(ii)

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[19] See *Western Union Telegraph Company*, 67 F.C.C. 2d 1420 (1978), (Public Telex/TWX Order), 68 F.C.C. 2d 98 (1978) (IRC Telex/TWX Order.)

[20] During the hearing process in Docket No. 78–97, WU acquired authorization to tariff "postalized rates" for service. *Western Union Telegraph Company*, Mimeo No. 000522 (released April 30, 1981), *Applications for Review pending*. The institution of these uniform distance insensitive rates prompted the Presiding Officer to bifurcate the proceeding into Phase I which investigates the lawfullness of rates filed in 1977, and Phase II in which the ALJ will hear evidence on the newly effective postalized rate. The Phase II proceeding has been suspended pending conclusion of the interconnection negotiations required by section 222. See *Western Union Telegraph Company*, FCC Order 92–91. (Adopted February 17, 1982).

[21] The Act clearly contemplates an interim solution. Section 222(c)(3)(B) requires the Commission to "issue an interim or final order" should the parties fail to reach an agreement among themselves which is consistent with the purposes of the Act. We would expect that any prescribed interim agreement would establish basic terms for interconnection and a non-discriminatory formula for the equitable allocation of revenues. Such a formula could provide for the filing of carrier-initiated interconnection tariffs with rates supported by cost justification, although we might also accept temporary rates (in order to avoid service delays) and defer the filing of cost and other support information.

[22] In the Commission's IRC Telex/TWX order, we indicated that the ALJ "may require WU to come forth with IRC (services) data if it is needed to rebut a threshold showing by the IRCs of substantial cost differences between public and IRC Telex/TWX service." 68 F.C.C. 2d at 123 (1978). The Commission took note that WU has acknowledged the possible existence of cost differences in previous contracts with the IRCs which offered discounts from public rates. Without absolving WU of its ultimate burden of proving the lawfulness of any tariff rate, the Commission refrained from requiring WU at the outset of the proceeding to disaggregate its costs to develop separate cost data for IRC services. It recognized the onerousness of this task and public interest considerations which may favor a degree of cost averaging. Hence the Commission held "it is reasonable to have the IRCs first demonstrate a likelihood of substantial cost differences * * *" *id.* at n. 41.

[23] Committee Report, page 11.

[24] Telegraph traffic was discussed by the parties as a type of traffic, generated by a domestic carrier and handed-off to an international carrier, that would be included in any pro rata traffic allocation. Telegraph traffic is also the subject of another provision of the Act. Section 3 of the Act provides that the Commission "shall exercise its authority under the Communications Act of 1934 to continue its oversight of the establishment of just and reasonable distribution formulas for unrouted outbound telegraph traffic and the allocation of revenues with respect to such traffic," for a period of one year from the date of enactment. The Committee Report explains that the requirement of a Commission-approved or prescribed formula is to be continued temporarily "in order to accomplish an orderly transition." (Committee Report, p. 13). The current formula for distributing unrouted outbound telegraph traffic was adopted by the Commission in 1976 and remains in effect. In view of the sunsetting of Commission authority over this traffic at the end of this year, we tentatively conclude that the present formula should be maintained. See *IRCs' Scope of Operations*, 57 F.C.C. 2d 190 (1976). The interim prescription in that order was made final in *IRCs' Scope of Operations*, 67 F.C.C. 2d 877 (1978), *aff'd sub nom. RCA Global Communications, Inc. v. FCC*, 574 F.2d 727 (2d Cir. 1978). See also *Regulatory Policies Concerning the Provision of Domestic Public Message Service*, 75 F.C.C. 2d 345 (1980) *aff'd sub nom. Western Union Telegraph Company v. FCC*, No. 79–2495 *et al.*, (D.C. Cir. Sept. 2, 1981) *modified in Regulation of Domestic Public Message Service*, 84 F.C.C. 2d 930 (1981).

of the Act to justify its access to IRC bearer circuits on a shared basis.[25] Bearer circuits are voice-grade lines, the channels of which are shared by two or more IRCs for convenience, cost savings, or efficiency. Carriers sharing bearer circuits route traffic through their own switches to a multiplexor which consolidates separate channels without interfering with the carrier's ability to provide direct service to overseas points. Graphnet claims that its access to bearer ciruits is a necessity in order for it to enter the competitive international marketplace as envisioned by Congress.

34. Noting its inability to acquire essential foreign operating agreements which would permit it to interconnect its own lines with foreign correspondents, Graphnet proposes to "piggyback" its channels onto actively working circuits of carriers already operating under agreements with foreign administrations. Through this arrangement, Graphnet and other similarly situated carriers or new market entrants, could overcome the refusal of the foreign correspondents to deal directly with them while allegedly not interfering with or jeopardizing the arrangements already secured by the existing IRCs.

35. The IRCs objected to Graphnet's position that the right of mandatory facilities interconnection includes the right to share access in overseas transmission lines. The IRCs expressed a willingness to interconnect with Graphnet and other carriers at the IRC switching centers and at rates which are presently tariffed. The IRCs stated that interconnection at their switches would be the only way to properly monitor and account for all transmissions and prevent inbound IRC traffic from being unnecessarily routed to Graphnet over the bearer circuit. More than one IRC claimed that foreign correspondents would object to any new carrier participation. Others indicated that the foreign correspondent would likely be indifferent to which carrier participates on the U.S. side of the traffic flow so long as it did not impede or complicate the foreign carrier's traffic management functions or increase its costs.

36. It is clear that the intent of Congress is to increase competition in the international marketplace and to prevent operating agreements with foreign correspondents from "restrict(ing) the ability of other United States carriers to send or receive traffic with that administration on a non-discriminatory basis," or "to impede competition among United States record carriers".[26] However, we note that part of Graphnet's statutory justification is based on a section that was eliminated in the Act's final form. We make no tentative conclusion in this notice as to Graphnet's statutory right to share international facilities with a carrier possessing overseas circuits.[27] We seek comments on Graphnet's interpretation of the Act, the technical limitations the IRCs claim would pervent them from monitoring the extent of Graphnet's channel usage, methods to verify unused IRC circuits and future allocation of unused circuits among carriers.[28]

VI. Procedures

37. We recognize complex legal, business and technical issues confront the parties. Nevertheless, we urge the negotiating parties to reach a negotiated settlement which would be subject to Commission review as required by section 222 (c)(4) of the Act. We anticipate that any agreement would lead to a series of tariff filings rather than carrier contracts. We intend to carefully analyze all the pleadings submitted in response to this Notice and to prescribe, if necessary, an interconnection agreement as required by the Act. To this end, we invite all interested entities to submit comprehensive filings on the issues identified above and on all other related matters within the scope of this rulemaking. Our initial analysis pursuant ot the Regulatory Flexibility Act, Pub. L. 96–354, is that this statute does not apply to the matters under consideration here which center on rates, prices and financial issues.

38. For purposes of this notice and comment rulemaking proceeding, members of the public are advised that restrictive *ex parte* rulemaking provisions will apply. See generally, §§ 1.1207, 1.1209 and 1.1229. 47 CFR 1.1207, 1.1209 and 1.1229. We take this step to permit the negotiations to continue under the aegis of the Commission and in response to such a request from all of the negotiating parties. We emphasize that the atypical procedure adopted here results from our statutory obligation to prescribe an interconnection agreement for certain record carriers while participating in multiparty negotiations with these same record carriers. We also note that restrictive *ex parte* rules have been employed voluntarily by the interested carriers since the inception of their interconnection negotiations.

39. Accordingly, it is ordered that, pursuant to Sections 4(i), 4(j), 201, 202, 205, 222 and 403 of the Communications Act of 1934, as amended, and Section 553(b) of the Administrative Procedure Act, a proposed rulemaking in this matter is instituted.

40. It is further ordered that, interested entities shall file comments concerning interconnection arrangements between and among the domestic and international record carries on or before March 10, 1982. Replies shall be filed on or before March 17, 1982. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

41. It is further ordered that, in accordance with the provisions of § 1.419 of the Commission's rules and regulations, all participants in the proceeding ordered herein shall file with the Commission an original and five (5) copies of all comments and reply comments. Copies of comments and reply comments filed in this proceeding shall be available for public inspection during regular business hours in the Commission's reference room at its headquarters at 1919 M Street, NW., Washington, D.C.

42. It is further ordered that, if the parties reach an agreement at any time prior to the issuance of a final or interim interconnection order by the

[25] Graphnet had acquired authorizations to provide domestic and international record services. Its inability, for one reason or another, to acquire foreign operating agreements has stymied the development of its international services.

[26] Committee Report at 12–13.

[27] Since we do not foreclose a Commission prescription ordering bearer circuit access, we recognize that we may have to assess whether ownership, leasing or indefeasible right of user (IRU) line acquisition options exist. The IRU concept is designed, in part, to permit telecommunications enterprises in foreign and interior nations the opportunity to make capital investments in submarine cables without investing in facility ownership before circuit activation. The IRU purchaser obtains a right to use the facility and to treat its investments as a capital cost rather than expense. An IRU acquisition does not confer the power to manage or control the facility. The IRU concept has been expanded to permit the conveyance of circuitry from one U.S. carrier to another.

[28] Graphnet has also argued that in cases where U.S. carriers or entities act as the overseas correspondent, or possess sole control over the lines and facilities for access to an overseas point, our ordering bearer circuit access would be consistent with the purpose of the Communications Act. We invite comments on this Graphnet position. Where a foreign correspondent indicates a willingness to directly interface through bearer circuits with a U.S. domestic carrier with or without a formal operating agreement, we would expect a U.S. international carrier to share bearer circuits with the U.S. domestic carrier if excess capacity exists or can be obtained.

Commission, then the parties' agreement shall, pursuant to the Act, take effect. Since the Commission has the authority to modify or vacate an agreement entered into by any of the negotiating parties, all interested parties and entities may submit comments as to the parties' agreement at anytime during its duration.

43. It is further ordered that the Commission's Secretary shall mail a copy of this Notice of Proposed Rulemaking to the Chief for Advocacy of the Small Business Administration.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-6390 Filed 3-11-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 1

[Gen. Docket No. 79-144; FCC 82-47]

Biological Effects of Radiofrequency Radiation When Authorizing Devices and Potential Effects of a Reduction in the Allowable Level of Radio Frequency Radiation

Correction

In FR Doc. 82-5032, published at page 8214, on Thursday, February 25, 1982, on page 8216, in the second column, in footnote 15, the formula should have read as follows:

$$d=\frac{\sqrt{EIRP}}{5.4024}$$

BILLING CODE 1505-01-M

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47 CFR Parts 1 and 43

[CC Docket No. 82-85; FCC 82-77]

Amendment of Annual Report of Licensee in Public Mobile Radio Services (FCC Form L)

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: In response to a petition from Mobilfone Service, Inc., the Commission proposes to simplify its Form L (Annual Report of Licensees in the Domestic Public Land Mobile Radio Service). The proposed new Form L will impose a much smaller burden on the carriers than the old Form L.

DATES: Comments must be received on or before March 26, 1982, and Reply Comments must be received on or before April 9, 1982.

ADDRESS: Secretary, Rm. 222, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Alan Feldman, (202) 632-7084.

Adopted: February 11, 1982.

Released: February 23, 1982.

By the Commission: Commissioner Fogarty absent.

In the matter of amendment of Annual Report of Licensee in Public Mobile Radio Services (FCC Form L), CC Docket No 82-85.

Introduction

1. Pursuant to §§ 1.785 and 43.21 of the Commission's rules, all licensees in the Public Mobile Radio Service (PMRS) are required to file FCC Form L (Annual Report of Licensee) (See Attachment A) with the Commission not later than three months after the close of the calendar year.[1] A consolidated Form L is required to be filed for each licensee, and a separate Form L is required for every station. The form is divided into five sections. The first section contains information by types of service offered. Information is requested on the numbers of subscribers, base stations, mobile stations and fixed stations associated with each class of service. The second section contains data dealing with the number of employees, wages and salaries. Section III contains revenue and message data for the classes of service listed in the first section. Section IV is a condensed balance sheet (six items from the assets side and six from the liabilities side), and Section V is a highly condensed (10 items) income statement. Telephone companies providing DPLMRS and reporting annually to the Commission on Form M are not required to file Form L.[2] In response to a Petition from one of the DPLMRS licensees, we are by this Notice proposing to eliminate or to substantially reduce the amount of information required in Form L.

Summary of Petition and Comments

2. On November 4, 1980, Mobilfone Service, Inc., (Mobilfone), a DPLMRS licensee, petitioned the Commission to institute a rulemaking proceeding looking toward the modification and simplification of FCC Form L. On April 17, 1981, the Commission put Mobilfone's petition out for public comment. Telocator Network of America (Telocator), national council of the independent, non-wireline radio common carrier (RCC) industry, submitted comments agreeing with and supporting Mobilfone's petition.

3. Mobilfone and Telocator suggest that the detailed financial and service data, which are currently required on the existing Form L, be replaced with very basic service and revenue data. While recognizing that there is a legitimate function in collecting some of the existing Form L information, Mobilfone and Telecator argue that the Form L should be substantially simplified because of several factors. First, they argue that the collection and compilation of the extensive financial information necessary for the completion of the Form L places a substantial burden on PMRS licensees.[3] Second, they argue that it does not appear that the Commission makes significant use of the detailed Form L financial date since this information is not utilized to monitor the financial qualifications [4] or the tariff filings of PMRS licensees.[5] Finally, they argue that the detailed financial information that is collected has questionable statistical validity since there are no standardized accounting or reporting procedures, and since most wireline carriers that are licensed in the PMRS are not required to file a Form L.[6] They suggest, therefore, that the Form L be simplifed so that the Commission will be able to compile statistics relating to the size and growth of this industry, while placing a minimal burden on licensees. Mobilfone also suggests that the Commission should consider requiring the detailed financial data on an as-needed basis, rather than on an annual basis.

Discussion

4. Upon review and consideration of the parties' contentions, the Commission agrees that the Form L should be

[1] While on their face, the above-mentioned rules literally only apply to the licensees of Domestic Public Land Mobile Radio Service (DPLMRS), it has been customary for all licensees in the PMRS, who do not file a Form M, to file a Form L. Accordingly, we propose to apply the new Form L reporting requirements to all services in the PMRS, including the new Cellular Communications Service.

[2] Approximately 400 telephone companies filed Form L reports in 1980. Only the 23 Bell operating companies and 34 large independent telephone companies providing DPLMRS were not required to submit Form L. These carriers file information in Form M. The data requested in that form are not strictly comparable to the data in Form L.

[3] They note that since many DPLMRS licensees are small firms, the Regulatory Flexibility Act, Pub. L. 96-354, 5 U.S.C. 603, 604 (1980), which requires that each government agency periodically review its rules that significantly affect small business entities, is applicable.

[4] *See* Elimination of Financial Qualifications, 82 FCC 2d 152 (1980), which eliminates the financial qualifications requirement for all non-cellular mobile services.

[5] *See* Mobile Tariff Filings, 1 FCC 2d 830 (1965) *reissued* 53 FCC 2d 579 (1975).

[6] See, however, footnote 2, *supra.*

substantially simplified. The Commission has always believed that its licensees should be required to file only such information as is necessary to enable us to fulfill our regulatory responsibilities. In evaluating our reporting requirements, we believe that any requirement must be explicitly tied to the effectuation of our regulatory responsibilities under the Communications Act. We will not engage in information-gathering for its own sake, nor will we serve as an information source for private interests. Thus, we will seriously consider eliminating the Form L reporting requirement entirely. Elimination or revision of the Form L should go a long way toward meeting this goal and toward correcting many of the existing problems. We feel that there is little need for detailed financial, employee and service data from each PMRS licensee, as the Commission exerts only limited regulation of these carriers. However, our spectrum allocation responsibility and our desire to promote competition where feasible in this area may necessitate our continuing to impose a reporting requirement on this industry. We, therefore, propose and issue for public comment a new Form L (see Attachment B).

5. The proposed form will have two parts. Part A requests service and revenue data at the company level, and Part B breaks down the summary service data by call sign.[7]

6. We believe that this proposed form represents a significant improvement over the existing Form L. The detailed financial and employee data have been eliminated. All data that have been retained should be readily available to our licensees, and should be able to be produced without great effort or expense. Thus, these modifications will substantially reduce the reporting burden on our carriers while still providing the Commission with sufficient data to support the execution of our regulatory responsibilities. This information is used for several purposes. First, this information is useful for planning and policy analysis. When the data are summarized by market and industry segments, they have provided a picture of the structure and economic status of the industry.[8] Second, the service data that we are requesting assists us in our enforcement functions. Finally, and most importantly, the Form L information has been extremely useful in connection with several frequency allocation proceedings.[9]

7. The difference between our proposed Form L and the format suggested by Mobilfone is in the reporting of revenue data.[10] Mobilfone recommends reporting only gross annual revenues, whereas we propose to include company wide revenues by class of service. These few additional items will provide us with the necessary data to monitor the effects of technological advancements on the different types of service and maintain a perspective on the structure of the industry. These data may be especially crucial in helping the Commission analyze the effect of the new cellular service on the common carrier mobile radio industry. This information, which should be readily available to all licensees, will assist us in our policy analysis and spectrum allocation functions. *See* paragraph 6, *supra*. Accordingly, we have included basic revenue data in our proposed Form L.

8. We propose that telephone companies submitting Form M also be required to submit the information called for on the new Form L. Currently, Schedule 57C in Form M requires total company service data and data by service area where priorities have been invoked due to held orders for service. The new reporting requirement would replace these data with those called for in paragraph 5. These additional data, which should be readily available, would impose a small burden on the 57 telephone companies submitting Form M and offering PMRS, while providing the Commission with useful data comparable to the data submitted by the remaining PMRS licensees.

9. We solicit comments on the question of how often this Form L report should be filed. Currently, it is filed every year. Mobilfone has suggested that detailed financial data should only be filed on an as-needed basis. We tentatively reject Mobilfone's suggestion since we have significantly reduced the financial data to be reported. We have also considered whether the simplified Form L should be filed on an as-needed basis. However, we tentatively reject that option also. While some of the Form L information could be obtained on an *ad hoc* basis, it would take a great deal of time to solicit, collect, and analyze. As a practical matter, if this reduced amount of information is not readily accessible, in most instances the decision must be made without the information, which we believe would result in more speculative decisionmaking. In addition, in such a dynamic industry as PMRS, we believe that industry trends are useful in evaluating public demand for these services with regard to both our frequency allocation and frequency assignment regulatory responsibilities. The formulation of such trends depends on the regular submission of data. Accordingly, we propose to continue requiring annual reports from our licensees. However, we solicit comments on whether less frequent reporting requirements would be more desirable (*e.g.*, submits reports every two or three years instead of annually).

10. Regulatory Flexibility Act—Initial Analysis.

Reason for Action and Objective

The Commission is seeking a cost effective procedure that would facilitate the collection of the minimum amount of data required to fulfill our regulatory responsibilities. The policy options under consideration will either significantly reduce the amount of data supplied by PMRS licensees each year or eliminate such collection altogether. The objectives are to collect information useful in policy analysis, enforcement functions and frequency allocation proceedings.

Legal Basis

The authority for this proposed rulemaking is contained in Section 219 of the Communications Act of 1934, as amended, and §§ 1.785 and 43.21 of the Commission's rules.

Small Entities Affected and Potential Impact

The impact of the proposed change will be on all providers of PMRS. Existing and potential applicants for this service range in size from single individuals and small partnerships to large multi-million dollar corporations. The proposed alternative will either eliminate or greatly reduce the amount of paperwork associated with providing the Commission with revenue and service data which licensees have to submit. Only large telephone companies, those with over a million dollars in annual operating revenues, and

[7] Consequently, each licensee will only have to file one Form L report.

[8] For example, the Commission utilized this data in its decision to eliminate financial qualifications for DPLMRS. *See* Elimination of Financial Qualifications, *supra* at note 3. We also note that while financial qualifications have been eliminated for DPLMRS, there is a financial qualifications requirement for cellular applicants. *See* Cellular Communications Systems, 86 FCC 2d 469, 501 (1981).

[9] For example, this data was used in 900 MHz Paging, General Docket No. 80-183, FCC 80-231, released May 8, 1980, Cellular Communications Systems, 86 FCC 2d 469 (1981), and Land Mobile Communications, Docket No. 21039, 77 FCC 2d 201 (1980).

[10] Telocator suggests also eliminating the revenue data, but asserts that it would not object to a Commission decision to require the reporting of gross revenue data.

interstate plants will be asked to provide a minimal amount of new information, which replaces an existing schedule on FCC Form M.

Relevant Federal Rules Which Overlap, Duplicate or Conflict

There are no other federal rules that overlap, duplicate or conflict with this action to our knowledge.

Specific Alternatives That Could Accomplish the Same Objectives

There are no significant alternatives minimizing impact on small entities that are consistent with the stated objectives.

Reporting, Recordkeeping and Compliance Requirements

This action will not create any new reporting or recordkeeping requirements for licesees.

11. Our proposed Form L is a tentative version. We invite comments on our proposal from all licensees who would be required to complete the form and from any other interested parties. Specifically, we ask whether or not the reporting requirement is needed at all. If a revised Form L is adopted, we inquire as to whether or not the instructions and definitions included in attachment B are sufficiently clear, and if not we invite comments on how they can be improved. We also solicit comments from present and prospective users of the information provided by Form L.

12. The Form L for the calendar year 1981 would normally be due on March 31, 1982. in light of the burden the Form L reporting requirement places on DPLMRS licensees and our proposed simplification of the form, we will suspend the Form L requirement for 1981 until such time as the instant rulemaking proceeding is completed. DPLMRS licensees should not file the 1981 Form L until an Order specifying the reporting requirements and filing deadline is released.

Conclusion

13. Accordingly, it is ordered, that, pursuant to the provisions contained in 47 U.S.C. 154(i)–(j), 303, 307, and 403, there is hereby instituted a notice of proposed rulemaking into the foregoing matters.

14. It is further ordered, that interested persons should therefore file comments on our proposal on or before March 12, 1982. Reply comments will be due on or before March 26, 1982. Pursuant to the procedures set forth in 47 CFR 1.419(b), an original and five copies of all comments filed in this proceeding shall be furnished to the Commission. All comments received in response to this Notice will be made available for public inspection in the Commission's offices in Washington, D.C. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

15. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of the presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

16. It is further ordered, that the Form L reporting requirement covering calendar year 1982 is temporarily suspended pending the issuance in this proceeding of an order specifying the reporting requirements and filing deadline.

17. It is further ordered, that the Secretary shall cause this notice of proposed rulemaking to be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

BILLING CODE 6712-01-M

FCC FORM L (Revision of 1974)

Attachment A

Approved by GAO
B-180227(R0018)
Expires 82/6/30

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D C 20554

ANNUAL REPORT OF LICENSEE IN DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

FOR THE YEAR ENDED DECEMBER 31, 19____

(NAME OF LICENSEE AND CALL LETTERS ASSIGNED)

(PRINCIPAL BUSINESS-OFFICE ADDRESS)

INSTRUCTIONS

1. This report is prescribed under authority of Sections 4(i), 219, 303(i), 303(r), and 308(b) of the Communications Act of 1934, as amended. It shall be filed in duplicate with the Federal Communications Commission, Washington, D. C. 20554 not later than 90 days after the close of the calendar year by each licensee engaged in Domestic Public Land Mobile Radio Service (D P L M R S) who does not file appropriate data with respect to such service in telephone annual report Form M. Companies furnishing public landline message telephone service as well as mobile service who are required to file this report form may omit reporting data called for in Section III, and, in lieu of filing data called for in Sections IV and V, may file copies of their balance sheet and income statements prepared for other purposes. Each licensee who operates more than one system (base station plus associated mobile stations) shall file, in addition to a combined report for all systems, a separate report (also in duplicate) applicable to the operations of each such system showing data for each item except 23 through 33 and 41, 42 and 43.

2. The following definitions apply to the classes of service listed in columns (a) and (i):

Rural subscriber Service—A service by which a subscriber at a fixed station in the Rural Radio Service communicates with a central office station or a base station.

Message relay service—A service by which messages to or from mobile stations are relayed orally by dispatchers of the licensee.

Direct dispatching service—A service by which the subscriber is able to operate the base station from a fixed point and is thus able to talk directly to his mobile stations.

Signaling or paging service—A one-way service whereby a radio signal is transmitted only from the base station to the mobile station receivers.

General service—A service by which calls may be made between mobile stations and the exchange and message toll facilities of a general landline telephone system, or by which two mobile stations may hold a direct conversation through the base station facilities. (This is not a combination of other classes of service.)

Other—Services not described above including short haul toll telephone.

3. Show in columns(c), (e) and (g), all base stations, mobile stations and fixed stations that are authorized, including those in service. "Mobile Stations" includes one-way signaling receivers whether or not they are installed in a vehicle.

4. All amounts of money may be shown to the nearest dollar.

5. Report in column (i) all amounts billed to subscribers on the bases of fixed periodic charges, including minimum message service charges or guarantees, equipment rentals, and flat-rate charges for maintenance of subscribers' equipment. Omit from columns (i) through (m) and from item 34, excise taxes payable by customers.

6. Show in column (q) the number of messages sent and in column (r) the computed value of communication services rendered for the benefit of other activities of the license at the rates that would be applicable to such services, when no revenue therefrom is reflected in column (m).

7. Condensed balance sheet and income statements, reflecting the licensee's other activities as well as D P L M R S, are required by Sections IV and V. When it is necessary to allocate amounts between D P L M R S and other activities, such allocations shall made in a reasonable and appropriate manner. If a balance sheet and income statement showing substantially the same data required by Sections IV and V have been prepared as at the end of the year, copies thereof may be attached in lieu of completing those Sections.

I. SERVICE DATA

ITEM NO.	CLASS OF SERVICE (See instruction 2) (a)	SUBSCRIBERS (b)	NUMBER AT END OF THE YEAR: BASE STATIONS AUTHORIZED (c)	BASE STATIONS IN SERVICE (d)	MOBILE STATIONS (See instruction 3) AUTHORIZED (e)	MOBILE STATIONS SERVED (f)	FIXED STATIONS AUTHORIZED (g)	FIXED STATIONS SERVED (h)
1	Rural subscriber				XX	XX		
2	Message relay							
3	Direct dispatching				XX	XX		
4	Signaling or paging				XX			
5	General							
6	Other							
7	Totals							

8 *Indicate total number of mobile stations served by licensee*_____ *How many of these stations are operated by persons directly or indirectly controlling, controlled by, or under direct or indirect common control with, the licensee?* _____stations.

II. EMPLOYEE DATA

ITEM NO.		
9	Number of persons devoting full time to DPLMRS at end of year, including licensee and family	
10	Number of persons devoting part time to DPLMRS at end of year, including licensee and family	
11	Total salaries and wages applicable to DPLMRS during the year	$
12	Is service rendered by another party pursuant to an agreement with the licensee? (If "yes", disclose under "Remarks" the terms thereof and consideration paid thereunder.)	☐ YES ☐ NO

Page 2-FCC Report Form L of _____ Year ended December 31, 19____

III. REVENUE FROM DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE AND RELATED DATA

ITEM NO	CLASS OF SERVICE (See instruction 2) (i)	REVENUE EARNED DURING THE YEAR: MINIMUM CHARGES & GUARANTIES (j)	ADDITIONAL MESSAGE CHARGES (k)	INSTALLATION, MOVE AND SPECIAL CHARGES (l)	TOTAL (m)	NUMBER OF REVENUE MESSAGES DURING YEAR (From station log): COVERED BY MINIMUM (n)	BILLED AS EXTRA (o)	TOTAL (p)	NONREVENUE MESSAGES DURING YEAR (See instruction 6) (From station log): NUMBER (q)	COMPUTED VALUE (r)
13	Rural subscriber	$	$	$	$					$
14	Message relay									
15	Direct dispatching									
16	Signaling or paging									
17	General									
18	Other									
19	Totals									

IV. CONDENSED BALANCE SHEET (See instruction 7)

ITEM NO.	ASSET SIDE	BALANCE AT END OF YEAR	ITEM NO.	LIABILITY SIDE	BALANCE AT END OF YEAR
20	Investment in plant used in DPLMRS	$	27	Current liabilities	$
21	Related depreciation reserve		28	Bonds, mortgages & other long-term debt	
22	Balance (Item 20 minus 21)		29	Operating reserves and deferred credits	
23	Other physical property-Less depr. (Net)		30	Capital stock outst. or proprietary capital	
24	Other investments		31	Premium on cap. stock & other cap. items	
25	Current assets and deferred charges		32	Earned surplus (including amount reserved)	
26	Total-Asset Side		33	Total-Liability Side	

V. CONDENSED INCOME STATEMENT (See instruction 7)

ITEM NO.	PARTICULARS	AMOUNT FOR THE YEAR
34	Revenue from DPLMRS (explain in a note any difference from amount reported for item 19, col. (m) of section III)	$
35	Direct expenses applicable to DPLMRS	
36	Depreciation accruals for current year applicable to plant used in DPLMRS	
37	Taxes applicable to DPLMRS (exclude income taxes and excise taxes billed to customers)	
38	Other expenses assignable to DPLMRS	
39	Total expenses applicable to DPLMRS (items 35 through 38)	
40	Net income from DPLMRS (Item 34 minus item 39) (Show loss in parentheses)	
41	Net income (before income taxes) from all other sources	
42	Taxes on income	
43	Net income for the year from all sources (items 40 and 41 minus item 42)	

REMARKS (Attach supplemental sheet, if necessary)

(Explain here (1) any significant difference between figures shown above and those in respondent's application for license; and (2) any difference between the name and address of licensee shown on this form and that shown on the license.)

I certify that to the best of my knowledge and belief this is a true and correct report:

(Date) _____, 19____ **(Signed)** _____

(Title) _____

(Licensee or officer of licensee)

FCC Form L

Attachment B

FEDERAL COMMUNICATIONS COMMISSION

Annual Report of Licensee in Public Mobile Radio Service
for the year ended December 31, 19__

Name of Licensee and Call letters assigned

_____

Principal Business-Office Address

_____

_____

Instructions

Part A

Service and Revenue Data
(Data at the company level)

Class of Service	Mobile Units / Fixed Stations number in service at end of year	PMRS Revenue amount for the year
1. Rural Subscriber.....	_____	_____
2. General and Dispatch..	_____	_____
3. Signaling or Paging...	_____	_____
4. Cellular.....	_____	_____
5. Other.....	_____	_____
6. Total (above lines)..	_____	_____

Part B

Service Data by Call Sign
(Continue on additional sheets if necessary)
(Number in service at end of year)

Mobile Units / Fixed Stations

Class of Service	Call Sign ____ Main Service Area (City, State)	Call Sign ____ Main Service Area (City, State)	Call Sign ____ Main Service Area (City, State)
Rural Subscriber.......			
General and Dispatch...			
Signaling or Paging....			
Cellular...............			
Other..................			
Total (above lines)..			

Class of Service	Call Sign ____ Main Service Area (City, State)	Call Sign ____ Main Service Area (City, State)	Call Sign ____ Main Service Area (City, State)
Rural Subscriber.......			
General and Dispatch...			
Signaling or Paging....			
Cellular...............			
Other..................			
Total (above lines)..			

Class of Service	Call Sign ____ Main Service Area (City, State)	Call Sign ____ Main Service Area (City, State)	Call Sign ____ Main Service Area (City, State)
Rural Subscriber.......			
General and Dispatch...			
Signaling or Paging....			
Cellular...............			
Other..................			
Total (above lines)..			

I certify that to the best of my knowledge and belief this report is true and correct:
(Date)______________,19___ (Signed)______________________________
(Title)______________________________

BILLING CODE 6712-01-C

Instruction for Form L

1. This report is prescribed under authority of Section 4(i), 219, 303(j), 303(r), and 308(b) of the Communications Act of 1934, as amended. Each licensee engaged in Public Mobile Radio Service (PMRS) is required to file this report, in duplicate, with the Federal Communications Commission, Washington, DC 20554 not later than three months after the close of the calendar year. Form L is needed to provide the Commission with data necessary to fulfill its regulatory responsibilities with respect to radio communications among mobile stations and between mobile stations and fixed stations. Information from the form is used in analyzing requests for frequency, and selected data are tabulated to monitor the growth of the industry.

2. All amounts of money may be shown to the nearest dollar. When it is necessary to allocate amounts between PMRS and other activities, such allocations shall be made using generally accepted accounting principles in a reasonable and appropriate manner.

3. The following definitions apply to the various classes of services:

Rural Subscriber Service—A service by which a subscriber at a fixed station in the Rural Radio Service communications with a central office station or a base station.

General Service—A service by which calls may be made between mobile units and the exchange and message toll facilities of a general land line telephone system, or by which two mobile units may hold a direct conversation through the base station facilities.

Dispatch Service—A service by which the subscriber is able to operate the base station from a fixed point to talk directly to his mobile unit.

Signaling or Paging Service—A one-way service whereby a radio signal is transmitted only from the base station to the mobile unit receivers.

Cellular Service—A service by which mobile radio systems maintain a high capacity to serve subscriber units through coordinated reuse of groups of radio channels. In such systems, each radio channel can be used many times in separate zones or cells within the service area.

Other—Services not described above.

[FR Doc. 82-6731 Filed 3-11-82; 8:45 am]
BILLING CODE 6712-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 32

Contract Financing; Availability and Request for Comment on Draft Federal Acquisition Regulations

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of availability and request for comment on draft Federal Acquisition Regulations.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR).[1] Availability of additional segments for comment will be announced on later dates. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before April 27, 1982.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, NW., Room 9025, Washington, D.C. 20503. Federal agency requests must be directed to the FAR Agency Contact Point (see **Federal Register**, Vol. 46, No. 50, March 16, 1981, p. 16818 for list).

FOR FURTHER INFORMATION CONTACT: William Maraist, (202) 395-3300.

SUPPLEMENTARY INFORMATION: The fundamental purposes of the FAR are to reduce proliferation of regulations; eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following parts of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment.

PART 32—CONTRACT FINANCING

Subpart 32.1—General

This subpart provides policies and procedures applicable to the general subject of contract financing and payment. It covers prompt payments, provision of contract financing, termination financing, financial consultation, response to adverse developments concerning a contractor who has been provided contract financing, and contract performance in foreign countries.

Subpart 32.4—Advance Payments

This subpart prescribes policies and procedures for advance payments on prime contracts and subcontracts. It covers the application for advance payments, contracting officer actions, application of Pub. L. 85-804 to advance payments under formally advertised contracts, interest, letters of credit, and agreement for special bank account.

Dated: March 4, 1982.

LeRoy J. Haugh,

Associate Administrator for Regulatory Policies and Practices.

[FR Doc. 82-6839 Filed 3-11-82; 8:45 am]
BILLING CODE 3110-01-M

[1] Filed as a part of the original document.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic

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

ACTION: Proposed rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, has approved the fishery management plan for the spiny lobster fishery of the Gulf of Mexico and South Atlantic. NOAA announces that copies of the fishery management plan are available, issues this proposed rulemaking to implement the plan, and requests comments on the plan and implementing regulations. The intended effect of these regulations is to prevent overfishing; increase the yield from the fishery; reduce user-group conflicts; and obtain the basic information required for improved management of the fishery.

DATES: Written comments must be received on or before April 26, 1982.

ADDRESSES: Comments and requests for copies of the fishery management plan and the regulatory impact review should be sent to: Mr. Harold B. Allen, Acting Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Mr. Harold B. Allen, 813-893-3141.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries approved the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (FMP) on February 2, 1982 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). These proposed regulations implement

the FMP, which was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils).

The FMP addresses the spiny lobster, *Panulirus argus*, fishery throughout the fishery conservation zone (FCZ) in the Gulf of Mexico and Atlantic Ocean. Within this management area, the fishery is located primarily in the south Florida region, where approximately 65 percent of the landings are taken from the FCZ. Currently, the spiny lobster fishery is the second most valuable commercial fishery in Florida and also supports an important recreational harvest.

The commercial catch is taken almost exclusively with wooden traps; the use of "shorts" (lobsters with a carapace length (CL) less than Florida's minimum legal size of "more than 3.0 inches") as attractants is a common practice. Recreational participants employ both scuba gear and free diving to pursue lobsters, but generally restrict their activities to relatively shallow water (i.e., less than 40 feet).

Reported commercial catches during 1970–79 averaged approximately 5.4 million pounds annually; in addition, there are substantial unreported catches. Estimates of unreported commercial and recreational catches range as high as 1.6 and 1.0 million pounds, respectively.

At present, the spiny lobster fishery is managed by the State of Florida through regulations enforced in the territorial sea; however, there is no effective enforcement in the FCZ. Enforcement efforts, particularly in the FCZ, have been hampered by insufficient penalties, the inability to control out-of-State vessels, and Florida's uncertainty about its authority to enforce its laws in the FCZ due to a recent State-court ruling.

The main purpose of the FMP and implementing regulations is to establish a cooperative State/Federal management regime for the spiny lobster fishery to resolve these problems in the most cost-effective manner. Under the cooperative approach, the State of Florida will provide the primary enforcement effort, with Federal enforcement support as resources are available. Implementation of these proposed regulations will enhance the effectiveness of Florida's enforcement by providing increased penalties, simultaneous closed seasons in the territorial sea and FCZ, and, most importantly, the clear authority to regulate all aspects of the fishery in the FCZ. The FMP indicates that implementation of these proposed regulations will prevent overfishing and result in an increase in landings of approximately 1.5 million pounds valued at $3.3 million (ex-vessel).

Optimum Yield (OY)

The Councils established an OY of all lobsters more than 3.0-inch CL or not less than 5.5-inch tail length that can be harvested by commercial and recreational fishermen given existing technology and prevailing economic conditions. This descriptive OY, which incorporates a minimum size, will avoid the risk of overfishing. The OY for 1982 is estimated to be 9.5 million pounds. Since domestic fishermen have the capacity and intent to harvest all of the OY, there will be no surplus available to foreign fishermen.

Gear Limitations

All traps will be required to have a degradable surface of sufficient size to allow escapement of lobsters from lost traps. Wooden traps are considered degradable and require no alteration.

In addition, the FMP prohibits the use of spears, hooks, and similar devices for the taking of spiny lobsters. Use of poisons or explosives for such a purpose is also prohibited. These restrictions are intended to minimize injury and mortality of small, sexually immature lobsters and to prevent damage to the coral reef habitat.

The use of spiny lobster traps during the two-day special recreational season is prohibited.

Harvest Restrictions

The FMP establishes a minimum harvestable size of more than 3.0-inch CL or not less than 5.5-inch tail length. This minimum size, coupled with an effective closed season, is intended to allow a sufficient number of lobsters to attain sexual maturity and spawn, thereby avoiding recruitment overfishing. A smaller minimum size (2.75-inch CL) was considered and rejected, because very few lobsters less than 3.0-inch CL are capable of reproducing. Although larger size limits would, theoretically, result in slight increases in long-term yield, they were rejected by the Councils because of unacceptable social and economic impacts, e.g., severe reductions in short-term landings and lower price per pound.

All spiny lobsters smaller than the minimum size ("shorts") must be returned to the water unharmed, except for those used as attractants in traps. No more than three live "shorts" per trap on the boat or 200 "shorts," whichever is greater, may be carried at any one time. The Councils acknowledge that the use of "shorts" as attractants results in some mortality, but the catch per unit of effort attained by using "shorts" has been shown to be 350 percent greater than by using cowhide bait, the only practical alternative currently available. The allowance for the limited use of shorts as attractants places a reasonable restriction on the extent of this practice but also allows for fishery efficiency.

The FMP prohibits the retention of "berried" (egg-bearing) spiny lobsters and requires that such lobsters be returned immediately to the water unharmed. Stripping or molesting "berried" lobsters is also prohibited. These measures are designed to aid recruitment by providing additional protection to the spawning stock.

The FMP also states that traps may be worked only during daylight hours and that no person shall molest or work another person's trap without written permission. These measures are intended to aid enforcement and reduce poaching and theft.

Fishing Season

A closed season will be established from April 1 through July 25. A five-day "soak period" for placement of traps is provided prior to the opening of the fishing season, and a five-day grace period is provided for retrieval of traps after the close of the fishing season. Traps can be placed in the water on or after July 21, but lobsters may not be harvested from the traps until July 26. During the five-day grace period (April 1 through April 5), traps may be retrieved, but all lobsters must be returned to the water free and unharmed. Lobster traps remaining in the management area from April 6 through July 20 will be considered abandoned and may be disposed of by any Authorized Officer. Owners of such traps are subject to civil penalties.

The proposed closed season corresponds with the peak period of spiny lobster mating and spawning. This will provide essential protection to the spawning population and will help ensure sufficient recruitment to avoid overfishing. The proposed closure in the FCZ is consistent with the State of Florida's closed season in the territorial sea and will not disrupt the historical fishing practices of most fishermen. Concurrent closures of the territorial sea and FCZ will facilitate dockside enforcement of the closed season, thereby increasing effectiveness and reducing costs. Prohibiting the possession of spiny lobsters in the FCZ during the closed season (except by non-trap recreational fishermen during the special recreational season and by importers with a proper bill of lading) is

necessary for proper enforcement of the closed season. Enforcement of the closed season will also be enhanced by the provision that allows enforcement agents to dispose of abandoned traps that would otherwise continue to fish.

A special two-day season for recreational fishermen not using traps will be established within the closed season during the first full weekend preceding the trap-soak period (July 21 through 25). The purpose of this measure is to segregate the special recreational season and the commercial trap-soak period, thereby reducing congestion and user-group conflicts.

Markings

All lobster traps fished within the FCZ must be identified by a number and color code issued through the National Marine Fisheries Service (NMFS). Each vessel using such traps must also be clearly marked with the same color code and identification number. The color code and number assigned to vessels by the State of Florida are adequate to meet these requirements. The NMFS Regional Director will issue the necessary number and color code to non-Florida-licensed vessels fishing in the FCZ. These marking requirements are necessary to aid enforcement and reduce poaching and theft.

Statistical Reporting

Better information is needed for effective management of the spiny lobster fishery. Currently, statistics on commercial landings are based only on data obtained through fish houses. This method understates actual landings, because it fails to account for that portion of the catch that is sold directly by fishermen and bypasses the fish houses. Another weakness of the present system is that effort data are collected by point of landing and do not identify areas fished. This makes it difficult to assess accurately the catch per unit of effort and the maximum sustainable yield (MSY) for the U.S. fishery, because some fishing is conducted in foreign waters.

Obtaining complete, detailed biological, social, and economic data from each user would be prohibitively expensive. Therefore, NMFS is developing a mandatory reporting system that utilizes sampling methods whenever a sample will provide adequate information. The Center Director will determine the number of individuals selected, the reporting interval, and the duration of reporting based on the data required for specific management needs.

Because this system has not been completely developed and forms not yet prepared, the proposed regulations reserve § 640.5. It is anticipated that the mandatory reporting system will be proposed as soon as sampling procedures and reporting forms are developed and approved. The forms will be submitted to the Office of Management and Budget for clearance under section 3507 of the Paperwork Reduction Act, Pub. L. 96–511.

Classification

The Assistant Administrator has determined that the FMP complies with the national standards, other provisions of the Magnuson Act, and other applicable law.

The adoption and implementation of the FMP is a major Federal action that will have a significant impact on the quality of the human environment. Under the National Environmental Policy Act and NOAA Directive 02–10, a draft environmental impact statement was filed with the Environmental Protection Agency. The notice of availability was published on January 23, 1981 (46 FR 7433).

The NOAA Administrator has determined that these proposed regulations are non-major under Executive Order 12291. A Regulatory Impact Review (RIR) has been prepared which analyzes the expected benefits and costs of the regulatory action. The review provides the basis for the Administrator's determination. The RIR indicates that the proposed regulations will result in benefits to fishermen and the economy which substantially exceed the total costs incurred by government and the private sector. Benefits expected to accrue during the first year of plan implementation include a $3.3 million increase in industry revenue, increased recreational participation, and a substantial reduction of user-group conflicts. The regulations are designed to prevent overfishing and increase the landings of spiny lobsters without unduly burdening any user groups. These regulations will be enforced via a State/Federal cooperative agreement that will maximize cost effectiveness. Enforcement will be accomplished with existing resources. Compliance with the regulation requiring vessel and gear markings will impose a minimal burden on new participants; virtually all current participants have complied with this requirement by adopting the markings required by the State of Florida.

The FMP and implementing regulations will not increase the Federal paperwork burden as defined by the Paperwork Reduction Act for individuals, small businesses, or other persons, since the data collection system will not be implemented at this time. Prior to implementation of the data collection system, forms will be submitted to the Office of Management and Budget for approval.

These regulations will have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act. An initial regulatory flexibility analysis has been prepared in compliance with the Regulatory Flexibility Act and has been combined with the RIR which is summarized above.

The Department of the Interior and the National Marine Fisheries Service have determined that the FMP is not likely to have an adverse impact on endangered species or on habitat that may be critical to these species.

The FMP has been determined to be consistent with the approved coastal zone management programs of all States within the management area. Florida's coastal zone program was only recently approved, and the Councils requested a determination on consistency on October 16, 1981. Since no response or request for extension of the comment period was received within 45 days (December 1, 1981), the FMP is assumed to be consistent with Florida's program.

Date: March 8, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

50 CFR is proposed to be amended by adding a new part to read as follows:

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Subpart A—General Provisions

Sec.

Subpart B—Management Measures

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

Subpart A—General Provisions

§ 640.1 Purpose and scope.

The purpose of this part is to implement the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic developed by the South Atlantic and

Gulf of Mexico Fishery Management Councils under the Magnuson Act.

The regulations in this Part govern fishing for spiny lobster by vessels of the United States within that portion of the Atlantic Ocean and Gulf of Mexico adjacent to the territorial sea, along the coast of the South Atlantic states from the Virginia/North Carolina border south and through the Gulf of Mexico, over which the United States exercises exclusive fishery management authority.

§ 640.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this Part have the following meanings:

Authorized Officer means:

(a) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Carapace length means a head-length measurement taken from the orbital notch inside the orbital spine, in a line parallel to the lateral rostral sulcus, to the posterior margin of the cephalothorax (Figure 1).

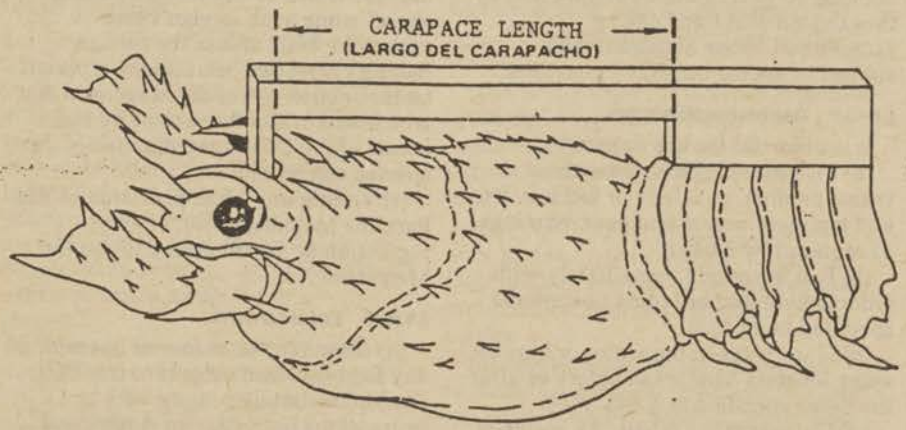

Figure 1

Center Director means the Center Director, Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149; telephone 305–361–5761.

Commercial fisherman means a fisherman who sells any part of his catch.

Degradable panel means a panel constructed of wood, cotton or other material that will degrade.

Fish includes the spiny lobster, *Panulirus argus.*

Fishery conservation zone (FCZ) means that area adjacent to the territorial sea of the constituent States of the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any acitivity, other than scientific research conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Live box means a container used for holding live lobsters aboard a vessel.

Magnuson Act means the Magnuson Fishery Conservation and Management Act. (16 U.S.C. 1801 *et seq.*).

Management area means that area of the FCZ adjacent to the territorial sea off the coasts of the States adjacent to the Gulf of Mexico and off the Atlantic coast south of the Virginia-North Carolina border.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time or voyage;

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similiar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Recreational fisherman means a fisherman who does not sell any part of his catch.

Regional Director means the Regional Director, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813–893–3141, or his designee.

Secretary means the Secretary of Commerce or a designee.

Spiny lobster means the species *Panulirus argus.*

Tail length means the measurement of the tail segment, with the tail in a straight, flat position, from the anterior end of the exoskeleton ("shell") of the first abdominal (tail) segment to the tip of the closed tail.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Magnuson Act.

Vessel of the United States means:

(a) A vessel documented or numbered by the U.S. Coast Guard under U.S. law; or

(b) A vessel under five net tons which is registered under the laws of any State.

§ 640.3 Relation to other laws.

(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(b) The regulations in this Part are intended to be compatible with, and do not supersede similar regulations in effect for:

(1) Everglades National Park (36 CFR 7.45).

(2) Fort Jefferson National Monument (36 CFR 7.27).

(3) Biscayne National Park (16 USC 410gg).

(4) Looe Key National Sanctuary (15 CFR 937).

(c) Certain responsibilities relating to data collection and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

§ 640.4 Vessel permits and fees.

No permits are required for fishing vessels engaged in fishing for spiny lobsters within the FCZ (but see vessel identification requirements in § 640.6(a)).

§ 640.5 Recordkeeping and reporting. [Reserved]

§ 640.6 Gear and vessel identification.

(a) Vessels, traps, and buoys must be identified by the number and color code issued by the Regional Director or a designee, or through Florida's identification system.

(b) An application for a Federal number and color code must be submitted and signed by the owner or operator of the vessel on a form obtained from the Regional Director. The application must be submitted to the Regional Director 45 days prior to the date on which the applicant desires receipt of the number and color code.

(c) Vessels and boats must permanently and conspicuously display the Federal or Florida color code and number in a manner as to be readily identifiable from the air and water; such color representation must be in the form of a circle at least 20 inches in diameter and the identification number must be at least 10 inches high.

(d) Buoys must be of such color as to be easily distinguished, seen, and located; the identification number must be legible and at least 3 inches high on each buoy.

(e) Each trap, can, drum, or similar device must have a legible identification number at least 3 inches high permanently attached as in the case of buoys.

(f) All spiny lobster traps fished in the FCZ will be presumed to be the property of the most recently documented owner.

(g) Upon the sale or transfer of all or part of an owner's interest in spiny lobster traps which are fished in the FCZ, that owner must report the sale or transfer within 15 days to the Regional Director if the identification number and color code for those traps were issued by the Regional Director.

(h) Unmarked spiny lobster traps fished in the FCZ at any time are illegal gear and may be disposed of in any appropriate manner by the Secretary or the Secretary's designee (including an Authorized Officer). Lines and buoys are considered part of the trap. If owners of these unmarked traps can be ascertained, those owners remain subject to appropriate civil penalties.

§ 640.7 General prohibitions.

It is unlawful for any person to:

(a) Fish for spiny lobster without a vessel number, or falsify or fail to affix and maintain vessel and gear markings, as required by § 640.6;

(b) Fail to comply immediately with enforcement and boarding procedures specified in § 640.8;

(c) Place traps in the water or harvest spiny lobsters from traps before or after the dates specified in § 640.20(a);

(d) Harvest spiny lobster by methods other than traps during the closed season specified in § 640.20 (b) and (c);

(e) Retain on board or possess on land any berried lobster taken in the FCZ;

(f) Strip eggs from or otherwise molest any berried lobster;

(g) Pull or tend traps except during the hours specified in § 640.21(b);

(h) Willfully tend, open, pull, or otherwise molest another person's traps, except as provided in § 640.21(b);

(i) Catch or retain more lobsters during the special non-trap recreational fishery than are specified in § 640.21(c);

(j) Retain lobsters smaller than the minimum size, except as specified in § 640.22;

(k) Use traps without degradable panels, or use prohibited gear or methods, as specified in § 640.23;

(l) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import without a proper bill of lading, land or export any spiny lobster or parts thereof taken or retained in violation of the Magnuson Act, this Part, or any other regulation promulgated under the Magnuson Act;

(m) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this Part, or any other regulation or permit issued under the Magnuson Act;

(n) Forcibly assault, resist, oppose, impede, intimidate or interfere with any Authorized Officer in the conduct of any search or inspection described in paragraph (m) of this section;

(o) Resist a lawful arrest for any act prohibited by this Part;

(p) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this Part;

(q) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested fish to any foreign fishing vessel while such foreign vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under Section 204 of the Magnuson Act which authorizes the receipt by such vessel of the U.S.-harvested fish of the species concerned; or

(r) Violate any other provision of this Part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 640.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this Part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook and catch for purposes of enforcing the Magnuson Act and this Part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or any other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" means "You should stop your vessel instantly,"

(2) "SQ3" means "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc." is the call to an unknown station, to which the signaled vessel should respond by illuminating the vessel identification required by § 640.6 (a) and (b).

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the

Authorized Officer and his party aboard;

(2) Provide a safe ladder for the Authorized Officer and his party if necessary;

(3) When necessary to facilitate the boarding, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other actions as necessary to ensure the safety of the Authorized Officer and his party and to facilitate the boarding.

§ 640.9 Penalties.

Any person or fishing vessel found to be in violation of this Part is subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 50 CFR Parts 620 (Citations) and 621 (Civil Procedures) and other applicable law.

Subpart B—Management Measures

§ 640.20 Seasons.

(a) *Trap fishery.* (1) The season for spiny lobster with traps begins on July 26, one hour before official sunrise, and ends March 31, one hour after official sunset. Traps may be placed in the water on or after July 21, but spiny lobsters may not be harvested until the beginning of the season. Traps must be removed prior to April 6; any spiny lobsters taken between April 1 and 6 must be returned to the water unharmed.

(2) Traps in the management area during the period between 0001 hours April 6 and 2400 hours July 20 will be considered unclaimed or abandoned property and may be disposed of in any manner considered appropriate by the Secretary or the Secretary's designee (including an Authorized Officer). Lines and buoys are considered part of the trap. Owners of these spiny lobster traps remain subject to appropriate civil penalties.

(b) *Non-trap fishery.* The fishing season for other harvesting methods begins 0001 hours July 26 and ends 2400 hours March 31.

(c) *Special non-trap recreational fishery.* There is a special non-trap recreational fishing season the first full weekend preceding July 21 from 0001 hours Saturday until 2400 hours Sunday.

§ 640.21 Harvest limitations.

(a) *Berried lobsters.* All berried (egg-bearing) lobsters must be returned to the water unharmed. Berried lobsters may not be stripped of their eggs or otherwise molested. If found in a trap, a berried lobster may be retained in the trap if it is immediately returned to the water.

(b) *Pulling traps.* Traps may be pulled or tended only during the period beginning one hour before official sunrise and ending one hour after official sunset.

(2) Traps may be pulled or tended only by the owner's vessel, unless the boat tending another person's trap has on board written consent of the trap owner.

(c) *Recreational catch.* During the two-day season described in § 640.20(c), the catch is limited to six lobsters per person per day, up to a maximum of 24 lobsters per boat per day.

§ 640.22 Size limitations.

(a) *Carapace length.* Except as provided in paragraph (b) of this section, spiny lobsters with a carapace length of 3.0 inches or less, or with a tail length of 5.5 inches or less, must be returned immediately to the water unharmed.

(b) *Attractants.* Live lobsters under the minimum size may be held in a shaded live box aboard a vessel for use as attractants in traps. No more than 3 undersized lobsters for each trap carried on board, or 200 undersized lobsters, whichever is greater, may be retained.

§ 640.23 Gear limitations.

(a) *Degradable panel.* Traps constructed of material other than wood must have a panel constructed of wood, cotton, or other degradable material located in the upper half of the sides or on top of the trap, that, when removed, will leave an opening in the trap no smaller than the diameter found at the throat or entrance of the trap.

(b) *Prohibited gear and methods.* (1) Spiny lobster may not be taken with spears, hooks, or similar devices or gear containing such devices. In the FCZ, the possession of speared, pierced, or punctured lobsters is prima-facie evidence that prohibited gear was used to take such lobsters.

(2) Spiny lobsters may not be taken with poisons or explosives.

§ 640.24 Authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

[FR Doc. 82-6821- Filed 3-11-82; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 49
Friday, March 12, 1982

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking Meetings

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of meetings of the Committee on Rulemaking of the Administrative Conference of the United States, to be held at 10:30 a.m., on Monday, March 29, 1982, and, also at 10:30 a.m., on Monday, April 12, 1982, in the Library of the Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, D.C.

At the March 29 meeting, the Committee will consider developing recommendations, for full Conference consideration, on the subject of requiring procedures in informal rulemaking in addition to those now required by 5 U.S.C. 553. The Committee expects to continue its deliberation of informal rulemaking procedure on April 12. At that meeting, the Committee also will consider a report by Professor Stephen Wood on procedures for amending or revoking rules adopted under "hybrid" rulemaking statutes.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meetings; any member of the public may file a written statement with the Committee before, during or after the meetings.

For further information concerning these meetings, contact Michael W. Bowers (202–254–7065). Minutes of the meetings will be available on request.

Richard K. Berg,

General Counsel.

March 5, 1982.

[FR Doc. 82–6709 Filed 3–11–82; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Agriculture Research Service

National Arboretum Advisory Council; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the Agricultural Research Service announces the following meeting:

Name: National Arboretum Advisory Council
Date: April 6, 7, and 8, 1982
Place: U.S. National Arboretum, 24th & R Streets, NE, Washington, DC 20002
Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: To review and make recommendations on: Research Programs, Exploration Plans, Education Programs, Maintenance Needs, Budget/Personnel, and Attend Demonstrations and Tour of Grounds/Gardens.
Contact person: Dr. Anson E. Thompson, Executive Secretary, National Arboretum Advisory Council, Room 305, Building 005, BARC-West, Beltsville, MD 20705, telephone (301) 344–2716.

Done at Beltsville, Maryland this 8th day of March 1982.

Anson E. Thompson,

Executive Secretary, National Arboretum Advisory Council.

[FR Doc. 82–6795 Filed 3–11–82; 8:45 am]

BILLING CODE 3410–03–M

Commodity Credit Corporation

1982-Crop Honey Price Support Program; Proposed Determinations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determinations.

SUMMARY: The Secretary of Agriculture is preparing to make determinations with respect to the price support program for 1982-crop honey. These determinations are to be made pursuant to the Agricultural Act of 1949, as amended. The program will enable producers to obtain price support on 1982-crop honey. Written comments are invited from interested persons.

DATE: Comments must be received by March 24 in order to be assured of consideration.

ADDRESS: Mail comments to Dr. Howard C. Williams, Director, Analysis Division, ASCS, USDA, 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harry A. Sullivan, Agricultural Economist, Analysis Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013 (202)–447–6758. The Preliminary Regulatory Impact Analysis describing the options considered in developing these proposed determinations and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: These proposed determinations have been reviewed under USDA procedures established in accordance with Secretary's Memorandum No. 1512–1 and Executive Order 12291 and have been classified "not major". It has been determined that these proposed determinations will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program that these proposed determinations applies to are: Title—Commodity Loans and Purchases; Number—10.051 as found in the catalog of Federal Domestic Assistance.

These proposed determinations will not have a significant impact specifically on area and community development. Therefore, review as established under OMB Circular A–95 was not used to assure that units of

local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of proposed determinations since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

In order that a price support program for the 1982 crop of honey can be implemented by April 1, 1982, the beginning of the marketing season, I have determined that it is impractical and contrary to the public interest to comply with the public rulemaking requirement of 5 U.S.C. 553 and Executive Order 12291. Accordingly, comments must be received by March 24 in order to be assured of consideration.

Price Support Program, Color Differentials and Discounts for Quality

Section 201(b) of the Agricultural Act of 1949, as amended, requires the Secretary to make available through loans, purchases, or other operations, price support to producers of honey at a level which is not in excess of 90 percent nor less than 60 percent of the parity price thereof. Loan and purchase rates will be based on color, class and grade and will reflect market differentials under which honey is merchandised. Section 401(6) of the Agricultural Act of 1949, as amended, requires that, in determining a price support rate in excess of the minimum prescribed, consideration must be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired under a price support program, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

Honey production during the 1955 to 1963 period averaged 250 million pounds annually. During that period, a decline in colony numbers was offset by an uptrend in yield per colony. After 1963, production trended downward, reaching a 1976–80 average of about 200 million pounds as a result of low yields, declining colony numbers, or both. The long term decline in colony numbers bottomed in 1972 when a modest upturn appeared to begin. However, colony numbers declined again in 1978 to 4,090,000 colonies. The current projection for 1982 production of 215 million pounds (from 4,300,000 colonies) is 35 million pounds above anticipated 1981 production and above most recent years.

The decline in domestic honey production has been partially offset by an increase in honey imports. While the U.S. was a net exporter of honey until the mid-sixties, it has been a net importer in recent years. Imports reached record or near record levels in each of the last four years. Imports in 1981 are estimated at around 77.3 million pounds, 28.3 million pounds above the quantity imported in 1980 and 10.8 million pounds above the previous record of 66.5 million pounds. Imports in 1982 are projected at 67 million pounds.

Total supply remained below 300 million pounds (the norm during the 1960's) until 1978 when it reached an estimated 316 million pounds. Total supply for 1982 is expected to reach 348 million pounds due to increased production and continued high imports.

Domestic disappearance trended down from a peak average of 265 million pounds in the 1950–53 period to 225 million pounds in the 1973–75 period. Disappearance is now running close to the 250 million pound level. The timing of reports on stock levels makes the disappearance for 1981 appear to be unusually low. Disappearance for the 1982–83 marketing year is expected to recover to a more normal level of about 264.5 million pounds.

Honey prices rose strongly during the 1970–74 period reaching 47.7 cents per pound on a bulk, extracted, wholesale, unprocessed basis in 1974. Prices then declined for 2 years reaching 45 cents in 1976. Market prices then progressively increased to the present level of about 56 cents per pound.

The level of price support for the 1981 crop of honey was established at 60 percent of parity or 57.4 cents per pound. The level of support for honey has been established annually at this 60 percent level since 1973. While CCC has not acquired stocks of honey during the period 1970 through 1979, 6 million pounds of 1980-crop honey were acquired by the Corporation. In addition, it is anticipated that CCC will acquire 10 million pounds of 1981-crop honey. Accordingly, it is proposed that the level of support for the 1982 crop of honey be established at 60 percent. Establishing a level of support in excess of 60 percent of parity would result in support prices well above projected market prices thus increasing the likelihood of CCC acquisitions of honey stocks.

Proposed Determinations

The Secretary of Agriculture is considering the following determinations and comments are requested thereon for the 1982 crop honey:

A. Level of support at 60% of parity, the minimum statutory level.

B. Loan rates with differentials based on color, class, and grade.

Signed at Washington, D.C. on March 9, 1982.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-6835 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Uinta National Forest Grazing Advisory Board; Meeting

The Uinta National Forest Grazing Advisory Board will meet at 9 a.m. on Thursday, April 1, 1982, at the Rodeway Inn at 1292 South University Avenue, Provo, Utah.

The purpose of this meeting is to receive recommendations on the utilization of range betterment funds and the development of range allotment management plans.

The meeting will be open to the public. Persons who wish to attend should notify W. Frank Savage, Uinta National Forest Supervisor's Office, P.O. Box 1428, Provo, Utah 84603, phone 801–377–5780. Written statements may be filed with the Board before or after the meeting.

Dated: March 3, 1982.

Don Nebeker,

Forest Supervisor.

[FR Doc. 82-6718 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-11-M

Packers and Stockyards Administration

Posted Stockyards; Dundee Community Auction, Dundee, Michigan, et al.

Correction

In FR Doc. 82–6094, published at page 9488, on Friday, March 5, 1982, on page 9489, in the first column, in the second entry of the table, "MI–166" should be corrected to read "SD–166".

BILLING CODE 1505-01-M

Office of the Secretary

Members of Performance Review Boards

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This document amends the list of Performance Review Board members published April 20, 1981, 46 FR 22629 and 22630, as amended July 15, 1981, 46 FR 36733, September 25, 1981, 46 FR 47244, and October 27, 1981, 46 FR 52404 and 52405.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Earl C. Hadlock, Chief, Executive Resources, Performance Appraisal, and Merit Pay Staff, Office of Personnel, Department of Agriculture, 14th Street and Independence Avenue, S.W., Washington, D.C. 20250 (202–447–2830).

The membership of the Department of Agriculture's Performance Review Boards is amended by deleting the names of G. William Hoagland and Robert Drummond and adding those of John E. Carson, Frank Gearde, Jr., Glenn Haney, Billy H. Jones, Doris Thompson, and Samuel Cornelius.

John R. Block,

Secretary of Agriculture.

March 8, 1982.

[FR Doc. 82-6738 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-01-M

Watershed Protection and Flood Prevention Program (Pub. L. 83–566) Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income Under Section 126 of the Internal Revenue Code of 1954, as Amended

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The purpose of this notice is to announce the determination by the Secretary of Agriculture that certain Federal payments made to landowners, operators or occupiers under the Watershed Protection and Flood Prevention Program (Pub. L. 83–566, 16 U.S.C. 1001 et seq.) are deemed to have been and are made primarily for purposes of conserving soil and water resources, protecting or restoring the environment, or providing a habitat for wildlife. This determination is in accordance with Section 126(b) of the Internal Revenue Code of 1954 as amended by Section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979, and is applicable to payments made after September 30, 1979. The effect of this determination makes it possible for recipients of these payments to exclude from gross income, to the extent allowed by the Internal Revenue Service, all or part of these payments.

FOR FURTHER INFORMATION CONTACT: Director, Project Development and Maintenance, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, (202) 447–3527.

SUPPLEMENTARY INFORMATION: This action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as "non-major." It has been determined that these program provisions will not result in an annual effect on the economy of $100 million or more; would not cause a major increase in costs or prices for consumers, individuals, industries, Federal, State or local Government agencies or geographic regions; and would not cause 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.

Section 126 of the Internal Revenue Code of 1954 (26 U.S.C. 126), as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, contains provisions which allow certain cost-sharing Federal payments to be excluded from gross income for Federal income tax purposes. Section 126 requires that the Secretary of Agriculture determine whether certain payments, or portions thereof, issued to persons with respect to conservation programs listed in Section 126(a) are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife * * *" Pursuant to criteria set forth in 7 CFR Part 14, the Secretary of Agriculture must evaluate each of these conservation programs and make a "primary purpose" determination with respect to the payments made under each program. In addition, before there may be an exclusion the Secretary of the Treasury must make a determination that any payment made to a person under these conservation programs does not increase substantially the annual income derived from the property benefited by the payments.

In accordance with Section 126(a)(9) the Secretary of the Treasury has determined that the Watershed Protection and Flood Prevention Program authorized by Pub. L. 83–566; 68 Stat. 666, as amended, 16 U.S.C. 1001 et seq., is a program under which payments may be considered for exclusion eligibility (26 CFR Part 16A; 46 FR 27636; May 21, 1981). The Watershed Protection and Flood Prevention Program provides technical and financial assistance to landowners, occupiers and operators for installing works of improvement for flood prevention, the conservation, development, utilization and disposal of water, or the conservation and proper utilization of land in watershed or subwatershed areas not exceeding two hundred and fifty thousand acres. Financial assistance is provided through locally managed soil and water conservation district, agreements with landowners, occupiers and operators individually or collectively. The agreements are based on conservation plans which are developed with and approved by the soil and water conservation district. The agreement provides for installing the complete conservation plan within a period not to exceed 10 years. The plan typically provides for changes in cropping systems and land use and for the installation of soil and water conservation practices and measures needed to conserve and develop the soil, water, woodland, and wildlife resources of lands covered by the agreement.

"A Watershed Protection and Flood Prevention Program Determination for Federal Tax Purposes" has been prepared and is available upon request from the Director, Land Treatment Program, SCS, P.O. Box 2890, Washington, D.C. 20013.

Notice of Determination

The Watershed Protection and Flood Prevention Program authorizing legislation, regulations, and operating procedures has been examined using the criteria established by the Department of Agriculture for determining the "primary purpose" of certain payments made with respect to various conservation programs as required by Section 126 of the Internal Revenue Code of 1954, as amended. This review indicates that the primary purpose of the payments made to landowners and operators under the Watershed Protection and Flood Prevention Program is to achieve flood prevention, conservation, development, utilization and disposal of water or the conservation and proper utilization of land in watersheds and subwatersheds.

Therefore, the Secretary of Agriculture hereby gives notice that in accordance with the criteria set out in 7 CFR Part 14, all payments to landowners, operators, and occupiers made under the Watershed Protection and Flood Prevention Program are determined to be primarily for the purpose of conserving soil and water resources or protecting or restoring the environment.

Subject to further determination by the Secretary of the Treasury, this determination will permit payment

recipients to exclude from gross income all or part of such payments under the Watershed Protection and Flood Prevention Program made after September 30, 1979.

Signed at Washington, D.C., on March 8, 1982.

John R. Block,

Secretary.

Watershed Protection and Flood Prevention Program—Record of Decision, Primary Purpose Determinations for Federal Tax Purposes

Introduction: The Secretary of Agriculture is authorized by Section 126 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 126), to determine the primary purpose for which payments are made under certain Federal and State cost-sharing programs. The determination will identify the payments which are eligible for exclusion from the recipient's gross income for Federal tax purposes to the extent allowed by the Internal Revenue Service.

In accordance with Section 126(a)(9), the Secretary of the Treasury has determined that the Watershed Protection and Flood Prevention Program is eligible for Section 126 coverage (26 CFR Part 16A; 46 FR 27636; May 21, 1981).

Basis for Determination: U.S. Department of Agriculture (USDA) determinations are made in accordance with 7 CFR Part 14 by reviewing authorizing legislation, regulations, and operating policy to identify the purposes for which cost-share payments are made. Final determinations are made on the basis of program, category of practices or individual practices and are published in the **Federal Register**.

Statement of Findings: The Watershed Protection and Flood Prevention Program is authorized by Pub. L. 83–566, as amended (16 U.S.C. 1001 et seq.). The authorizing legislation states that the purpose of the program is to prevent floods, further the conservation, development, utilization and disposal of water, and the conservation and utilization of land. These objectives are achieved through project activities which include planning and installation of structural, nonstructural and land treatment measures.

Structural measures are broadly defined as those works of improvement that affect two or more beneficiaries and are too large for installation by a single landowner. Examples includes dams, leeves and stream channel modification. Nonstructural examples include flood proofing, flood plain regulations and flood warning systems. Land treatment practices are those measures normally installed by individual land users, such as terrances and waterways.

Technical assistance is provided through local sponsoring organizations that are duly organized under State law. Financial assistance for installing structural and nonstructural measures is provided to sponsors in accordance with Pub. L. 83–566 and the policy of the Secretary of Agriculture. Land treatement measures are cost shared with individual land users. In accordance with the law, cost share may not exceed the rate provided under other similar national cost sharing programs. Current SCS policy (Part 504.01(a)3b of the National Watershed Manual) states that measures installed primarily for the purpose of increasing agricultural production are ineligible for cost-sharing assistance.

Pub. L. 83–566 funds may be used to provide technical and financial assistance for planning and installing land treatment necessary to achieve project goals. Pub. L. 83–566 financial assistance can be used only to supplement funds available from other USDA programs and State and local sources. Land treatment eligible for assistance must meet any of the following conditions:

(1) Be effective in reducing soil erosion or sedimentation hazards or * * *

(2) Have measurable physical effects in reducing floodwater damages; providing for water conservation; enhancing fish and wildlife habitat; improving water quality or producing other environmental benefits or * * *

(3) Be necessary to ensure realization of benefits used in the economic justification of structural measures and in the watershed plan and * * *

(4) Not be intended pirmarily for increasing annual income and agricultural production and * * *

(5) Be an economically and environmentally defensible plan.

The Secretary of Agriculture has delegated responsibility for administration of Pub. L. 83–566 to the Chief, Soil Conservation Service. The U.S. Forest Service and the Farmers Home Administration have also been delegated those responsibilities that respectively relate to forest lands and loan features of the program.

Summary

The purpose of the program is to preserve and protect the Nation's water and related land resources. Cost sharing is limited by law or policy and is consistent with other similar programs. Measures installed primarily for the purpose of increasing agricultural production are ineligible for cost sharing assistance. Assistance is limited to watersheds where other programs are not able to solve water and related land resource problems in a timely manner.

Determination

Therefore, it is determined that all cost-share payments for land treatment made to landowners, occupiers and operators under the Watershed Protection and Flood Prevention Program are for the purpose of conserving soil and water resources or protecting or restorting the environment.

[FR Doc. 82–6739 Filed 3–11–82; 8:45 am]

BILLING CODE 3410–01–M

Soil Conservation Service

Mansfield Township Elementary School RC&D Measure, New Jersey; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Plater T. Campbell, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, Somerset, New Jersey 08873, telephone 201–246–1205.

Notice.—Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mansfield Township Elementary School Critical Area Treatment RC&D Measure, Warren County, New Jersey.

The environmental assessment of this federally assisted action indicates that the project will not cause significant adverse impacts on the human environment. As a result of this finding, Plater T. Campbell, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the stabilization of critically eroding areas on the Manfield Township Elementary School grounds. The planned works of improvement include both vegetative and concrete block-lined waterways and the enlargement of an existing culvert.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Plater T. Campbell, State Conservationist, 1370 Hamilton Street, Somerset, New Jersey 08873, telephone 201–246–1205. An environmental impact appraisal has been prepared and sent to various Federal, State and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until April 12, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Plater T. Campbell,

State Conservationist.

March 5, 1982.

[FR Doc. 82–6759 Filed 3–11–82; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended March 5, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.).

Date filed	Docket No.	Description
March 5, 1982	40507	EOA, Inc., c/o Walter E. Collier, P.O. Box 913, Leesburg, Virginia 22075. Application of EOA, Inc., pursuant to section 401(D)(1)(A), of the Act and Subpart Q of the Board's Procedural Regulations, requests permanent authority to engage in scheduled air transportation of persons, property and mail between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States and any other point in any state of the United States or the District of Columbia, or any territory or possession of the United States. Conforming Applications, motions to modify scope, and Answers may be filed by April 2, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–6768 Filed 3–11–82; 8:45 am]

BILLING CODE 6320–01–M

[82–3–53; Docket 40412]

Application of Midwestern Airlines, Inc., for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting a Fitness Investigation of Midwestern Airlines, Inc., 82–3–53 Docket 40412.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Midwestern Airlines, Inc.

DATES: Persons wishing to file petitions to intervene in the *Midwestern Airlines Fitness Investigation* shall file their petitions in Docket 40412 by March 22, 1982 and serve such filings on all persons listed below.

ADDRESSES: Petitions to intervene should be filed in Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 40412, application of Midwestern Airlines, Inc. for (1) a determination of fitness, (2) a certificate of public convenience and necessity, and (3) a disclaimer of jurisdiction or, in the alternative, approval of interlocking relationships.

In addition, copies of such filings should be served on: Midwestern Airlines, Inc., the Mayors of Chicago, Illinois; Cleveland, Ohio; Flint, Lansing, Midland, Bay City, Saginaw, Grand Rapids, Muskegon and Kalamazoo, Michigan; the managers of these cities' airports; the Michigan Aeronautics Commission; the Illinois Department of Transportation; the Ohio Department of Transportation; the Federal Aviation Administration; and the American Association of Airport Executives.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673–5328.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–3–53 is available from our Distribution Section, Room 100, 1825 Connecticut Ave., NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82–3–53 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: March 8, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–6770 Filed 3–11–82; 8:45 am]

BILLING CODE 6320–01–M

Commuter Fitness Determination

The Board is proposing to find the following carriers fit willing and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82–3–26	Barken International, Inc	Mar. 25, 1982.
82–3–27	Planes, Inc	Mar. 25, 1982.
82–3–28	Midwest Aviation Division of Southwest Aviation, Inc.	Mar. 25, 1982.
82–3–37	Mid-South Airlines, Inc	Mar. 25, 1982.
82–3–58	Ross Aviation, Inc	Mar. 29, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for

Orders 82–3–26, 82–3–27, 82–3–28, and 82–3–58 with the Special Authorities Division, Room 915; for Order 82–3–37 with the Essential Air Services Division, Room 921, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: For Order 82–3–26: Mr. John McCamant, (202) 673–5082; for Order 82–3–27: Mr. James Lawyer, (202) 673–5088; for Order 82–3–28: Mr. J. Kevin Kennedy, (202) 673–5918; for Order 82–3–37: Corinne Grant, (202) 673–5002; and for Order 82–3–58: Mr. Raymond H. Nadonley, (202) 673–5920, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428.

By the Civil Aeronautics Board: March 9, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–6769 Filed 3–11–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket 40338]

Norfolk and Western Railway Co.—Piedmont Aviation Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Norfolk and Western Railway Company-Piedmont Aviation, Inc. Show-Cause Proceeding.

SUMMARY: The Board has tentatively decided to approve the potential acquisition of Piedmont Aviation, Inc. by Norfolk and Western Railway Company under section 408 of the Federal Aviation Act. The parties are not substantial, potential or actual competitors. Interested persons may file objections to this tentative decision, together with specific evidence relied upon, within 15 days of service of the order. Answers thereto are due within 20 days of service of the order. If no objections are filed, this decision will become final and effective without further order.

DATES: Objections to this order shall be filed no later than March 24, 1982, and answers should be filed no later than April 13, 1982.

ADDRESSES: Documents should be filed in Docket 40338, Docket Section, Room 714, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Paul Samuel Smith, Competition Maintenance Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–6075.

SUPPLEMENTARY INFORMATION: A complete text of Order 82–3–50, is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82–3–50 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: March 8, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–6771 Filed 3–11–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Management-Labor Textile Advisory Committee; Rescheduled Public Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Management-Labor Textile Advisory Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

TIME AND PLACE: March 31, 1982, 1:00 p.m. to 2:00 p.m. The meeting will take place at the Main Commerce Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. (Public entrance to the building is on 14th Street between Constitution Avenue and E Streets, NW.)

AGENDA: (1) Review of import trends, (2) Implementation of textile agreements, (3) Report on conditions in the domestic market, (4) Other business.

PUBLIC PARTICIPATION: The meeting will be open to public participation to the extent time is available. The public may file written statements with the Committee before or after the meetings. Approximately 30 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377–3737.

Dated: March 9, 1982.

Paul T. O'Day,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 82–6825 Filed 3–11–82; 8:45 am]

BILLING CODE 3510–25–M

Minority Business Development Agency

Financial Assistance Application Announcement

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for a Cooperative Agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning September 1, 1982 in the Norfolk, Virginia SMSA. The cost of the project is estimated to be $250,000. The maximum federal participation amount is $225,000. The minimum amount required for non-federal participation is $25,000. The project number is 03–10–82004–01.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: April 16, 1982.

Applications should be submitted in triplicate and mailed to the following address: Washington Regional Office, Minority Business Development Agency, 1730 K Street N.W., Suite 420, Washington, D.C. 20006, Phone (202) 634–7883.

FOR FURTHER INFORMATION AND/OR AN APPLICATION KIT CONTACT: Ms. Beverly Ivery at (202) 634–7883.

SUPPLEMENTARY INFORMATION:

A. *Scope and Purpose of this Announcement.* Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer

them a full range of management and technical assistance; and serve as a conduit—through which and from which information and assistance to and about minority businesses are funneled.

B. *Eligible Applicants.* Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. *Evaluation Process.* All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. *Evaluation Criteria for Business Development Center Application.* The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff.* Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior expericences in providing management and technical assistance to minority individuals and firms. Indicate preivious experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

—Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contacting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology.* Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as guides and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources.* Address technical and administrative resources, i.e. computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500.000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: (1). cash contributions; (2). fee for services; and (3). in-kind contributions.

A. *Cash contributions.* Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services.* Are charges to the client for assistance provided by BDC.

C. In-Kind contribution. Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. *Costs.* Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and

—The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency.*

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification of all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. *Disposition of Proposals.* Notification of awards will be made by the Grants Officer. Organization whose proposals are unsuccessful will be advised by the Regional Director.

F. *Proposal Instructions and Forms. Questions concerning the preceding information, copies of application forms,*

and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A–95 requirements.

G. A Pre-Application conference to assist all interested applicants will be held at the following address on Wednesday, March 24, 1982 at 10:00 A.M.: U.S. Department of Commerce, 14th and Constitution Ave. N.W., Room 6802, Washington, D.C. 20230.

Dated: March 8, 1982.

Luis G. Encinias,

Regional Director.

[FR Doc. 82–6772 Filed 3–11–82; 8:45 am]

BILLING CODE 3510–21–M

Financial Assistance Application Announcement

The Minority Business Development Agency announces that it is seeking applications under its Indian Program to operate three San Francisco Region projects for a 12-month period. The aggregate total costs of the projects are $523,889.

Funding Instrument: It is anticipated that the funding instruments as defined by the Federal Grant and Cooperative Agreement Act of 1977 will be Cooperative Agreements.

Program Descriptions: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible minority clients in areas related to the establishment and operation of businesses. These proposed projects are specifically designed to provide business information counseling, financial packaging assistance, and assistance in identifying and exploiting business opportunities and new/or expanding markets.

Summary of Project Locations

Alaska, Arizona, Washington/Oregon

One Cooperative Agreement Under the Indian Business Development Center (IBDC) Program to operate a pilot project for a 12-month period beginning August 1, 1982 in the State of Washington/Oregon. This pilot project will operate at a cost not to exceed $170,000 and the Project I.D. Number is 10–10–82024–01. Closing Date: April 12, 1982.

One Cooperative Agreement Under the Indian Business Development Center (IBDC) Program to operate a pilot project for a 12-month period beginning October 1, 1982 in the State of Alaska. This pilot project will operate at a cost not to exceed $183,889 and the Project I.D. Number is 10–10–82025–01. Closing Date: June 22, 1982.

One Cooperative Agreement Under the Indian Business Development Center (IBDC) Program to operate a pilot project for a 12-month period beginning September 1, 1982 in the State of Arizona. This pilot project will operate at a cost not to exceed $170,000 and the Project I.D. Number is 09–10–82026–01. Closing Date: May 25, 1982.

An application kit is available upon written request.

The pre-application conference to assist all interested applicants will be held at 450 Golden Gate Avenue, San Francisco, California 94102, Room 13029, (13th Floor) on March 22, 1982, at 10 a.m.

Applicants are limited to Indian-owned firms, Indian Tribes, and Indian individuals, profit or non-profit.

—To provide management and technical assistance to qualified Indian firms,

—To develop and maintain an inventory of existing Indian businesses and prospective entrepreneurs, and

—To provide brokering service that will foster and promote new business ownership, business expansions, market opportunities and new capital sources.

Legal services are excluded.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. A fee for services for assistance provided clients will be charged. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for the firms with gross sales of over $500,000. Cost sharing contributions can be in the form of cash contributions, fee or services, or in-kind contributions.

The program is subject to OMB Circular A–95 requirements.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102.

For further information contact Mr. Mikel Cook at 415/556–6733.

(11.800 Minority Business Development. Catalog of Federal Domestic Assistance)

Dated: March 3, 1982.

R. V. Romero,

Regional Director.

[FR Doc. 82–6708 Filed 3–11–82; 8:45 am]

BILLING CODE 3510–21–M

National Bureau of Standards

Approval of Federal Information Processing Standard 91, Magnetic Tape Cassettes for Information Interchange, Dual Track Complementary Return-to-Bias (CRB) Four-States Recording on 3.81-mm (0.150-in) Tape

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards. On September 25, 1980, notice was published in the Federal Register (45 FR 63542–63543) that a standard for Magnetic Tape Cassette for Information Interchange, Dual Track Complementary Return-to-Bias Four States Recording (CRB) on 3.81 mm (0.150 in) Tape was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the standard as a FIPS, and that the standard shall be published as FIPS Publication 91. The provisions of this standard are effective on the date of publication of this notice in the Federal Register.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230.

The approved FIPS contains two portions: (1) An announcement portion which provides informatin concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in

this notice. This FIPS incorporates by reference the technical specifications of American National Standard X3.59–1981, Magnetic Tape Cassettes for Information Interchange, Dual Track Complementary Return-to-Bias (CRB) Four-States Recording on 3.81-mm (0.150-in) Tape.

By arrangement with the American National Standards Institute, interested parties may purchase copies of this standard, including the specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring further information about this standard may contact Mr. Michael Hogan, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921–3723.

Dated: March 8, 1982.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 91—Announcing the Standard for Magnetic Tape Cassettes for Information Interchange, Dual Track Complementary Return-to-Bias (CRB) Four-States Recording on 3.81-mm (0.150-in) Tape

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Magnetic Tape Cassettes for Information Interchange, Dual Track Complementary Return-to-Bias (CRB) Four-States Recording on 3.81-mm (0.150-in) Tape (FIPS PUB 91).

Category of Standard. Hardware Standard, Interchange Codes and Media.

Explanation. This standard specifies the recorded characteristics for a 3.81 mm (0.150 in) wide magnetic tape cassette with data recorded on two tracks using complementary recordings and a return-to-bias method of encoding in order to provide for digital data interchange between information processing systems. This standard is one of a series of Federal Information Processing Standards implementing the Federal Standard Code for Information Interchange (FIPS 1–1) on magnetic tape media.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standard Magnetic Tape Cassettes for Information Interchange, Dual Track Complementary Return-to-Bias (CRB) Four-States Recording on 3.81-mm (0.150-in) Tape, X3.59–1981.

Related Documents

a. American National Standard Code for Information Interchange (ASCII), X3.4–1977, FIPS PUBS 1–1 and 7.

b. American National Standard Code Extension Techniques for Use with the 7-Bit Coded Character Set of American National Standard Code for Information Interchange, X3.41–1974, FIPS PUB 35.

c. American National Standard Magnetic Tape Cassettes for Information Interchange, (3.810-mm (0.150-in) at 32 bpmm (800 bpi), PE), X3.48–1977, FIPS PUB 51.

d. American National Standard Additional Controls for Use with American National Standard Code for Information Interchange, X3.64–1979, FIPS PUB 86.

Applicability. This standard is applicable to the acquisition and use of all magnetic tape cassette recording and reproducing equipment employing 3.81 mm (0.150 in) wide magnetic tape with data recorded on two tracks with complementary recordings using a return-to-bias method of encoding. Federal information processing systems employing such equipment, including associated software, shall provide the capability to accept and generate recorded magnetic tape cassettes in compliance with the requirements set forth in this standard.

Specifications. This standard incorporates by reference the technical specifications of American National Standard Magnetic Tape Cassettes for Information Interchange, Dual Track Complementary Return-to-Bias (CRB) Four-States Recording on 3.81-mm (0.150-in) Tape, X3.59–1981.

Qualifications. None.

Implementation Schedule. All applicable equipment ordered on or after the date of the publication of this approved FIPS PUB in the **Federal Register** must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure described below. Exceptions to this standard are made in the following cases:

a. For equipment installed or on order prior to the date of this FIPS PUB.

b. Where procurement actions are into the solicitation phase (i.e., Request for Proposals or Invitation for Bids has been issued) on the date of this FIPS PUB.

Waivers. Heads of agencies may request that the requirements of this standard be waived in instances where it can be clearly demonstrated that there are appreciable performance or cost advantages to be gained and that the overall interests of the Federal Government are best served by granting the requested waiver. Such waiver requests will be reviewed by and are subject to the approval of the Secretary of Commerce. The waiver request must address the criteria stated above as the justification for the waiver.

Forty-five days should be allowed for review and response by the Secretary of Commerce. Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for a Waiver to a Federal Information Processing Standard. No agency shall take any action to deviate from the standard prior to the receipt of a waiver approval from the Secretary of Commerce. No agency shall begin any process of implementation or acquisition of non-conforming equipment unless it has already obtained such approval.

Special Information. Federal standards and/or specifications for unrecorded magnetic tape cassettes will be developed and issued by the General Services Administration. Until such time as these are available, American National Standard X3.48–1977, Magnetic Tape Cassettes for Information Interchange (3.810-mm (0.150-in) Tape at 32 bpmm (800 bpi), PE), should be cited in Federal procurements.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 91 (FIPS–PUB–91), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 82-6720 Filed 3-11-82; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Issuance of Permit

On February 1, 1982, Notice was published in the **Federal Register** (46 FR 4549) that an application had been filed with the National Marine Fisheries Service by Mr. Randall S. Wells and Mr. Michael D. Scott for a Scientific Research Permit to take Atlantic bottlenose dolphins by potential harassment.

Notice is hereby given that on March 5, 1982, the National Marine Fisheries Service issued a Scientific Research Permit as authoirized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), to Mr. Randall S. Wells and Mr. Michael D. Scott, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: March 5, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-6837 Filed 3-11-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Official Authorized To Issue Export Visas and Certifications for Exempt Textile Products From the Republic of Korea

March 8, 1982

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Authorizing Jang Wooh Noh (Noh, J. W.) to issue visas and certifications for exempt cotton, wool and man-made fiber textile products exported from the Republic of Korea to the United States, replacing Hong Geon Choe.

(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), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926)).

SUMMARY: On May 25, 1972, a letter dated May 19, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs was published in the **Federal Register** (37 FR 10605), prohibiting entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported to the United States, for which the Government of the Republic of Korea had not issued a visa. A further letter, dated August 22, 1973, was published in the **Federal Register** on August 29, 1973 (38 FR 23357), which established an administrative mechanism to exempt from the limitations of the bilateral agreement between the Governments of the United States and the Republic of Korea certain textile products which have been certified for exemption by the Government of the Republic of Korea.

One of the requirements is that the visas and certifications for exemption include the signature of an official designated by the Government of the Republic of Korea. The Government of the Republic of Korea has informed the Government of the United States that, effective on November 4, 1981, Jang Wooh Noh (Noh, J. W.) of the Ministry of Commerce and Industry, is the official authorized to issue export visas and certifications for exempt items, replacing Hong Geon Choe. Goods covered by visas and certifications issued by Hong Geon Choe before November 4, 1981 will not be denied entry.

EFFECTIVE DATE: November 4, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

March 8, 1982

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This letter further amends, but does not cancel, the directive of May 19, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, effective 30 days after publication of notice in the **Federal Register**, entry into the United States for consumption and withdrawal from the warehouse for consumption of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea for which the Republic of Korea had not issued a visa. It also further amends, but does not cancel, the directive of August 22, 1973, which established a mechanism to exempt from the levels of the bilateral agreement between the Governments of the United States and the Republic of Korea, certain textile products which have been certified for exemption by the Government of the Republic of Korea.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, the directives of May 19, 1972 and August 22, 1973, as previously amended, are hereby further amended to authorize Jang Wooh Noh (Noh, J. W.) to issue visas and certifications for exempt cotton, wool and man-made fiber textile products exported from the Republic of Korea, effective on November 4, 1981, replacing Hong Geon Choe. Goods covered by visas and certifications issued by Hong Geon Choe before November 4, 1981 shall not be denied entry.

The action taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-6841 Filed 3-11-82; 8:45 am]

BILLING CODE 3510-25-M

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[Docket No. CRT 80-4]

1979 Cable Royalty Distribution Determination

Correction

In FR Doc. 82-6102 appearing on page 9879 in the issue of Monday, March 8, 1982, make the following correction.

On page 9897, second column, in the table "Distribution of Cable Royalty Fees", the entry for "Approximate CRT administrative costs" reading "451,000.00" should read "45,000".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 82-02-NG]

Natural Gas Imports, Northwest Pipeline Co.; Application To Increase Maximum Daily Volumes of Natural Gas Authorized for Import From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy gives notice of receipt on January 26, 1982, of an application from Northwest Pipeline Company ("Northwest") for authorization to import natural gas from Canada. Northwest seeks an increase in its daily import authorization from 809,000 Mcf per day to 869,000 Mcf per day from Westcoast Transmission Company Limited ("Westcoast") at the international boundary near Sumas, Washington. Northwest also seeks authorization to shift the point of import for certain volumes of natural gas from Sumas, Washington, to Kingsgate, British Columbia.

The application is filed with ERA pursuant to section 3 of the Natural Gas Act and the Secretary of Energy's Delegation Order No. 0204-54. Protests or petitions to intervene are invited.

DATES: Protests or petitions to intervene are to be filed no later than 4:30 p.m., April 12, 1982.

FOR FURTHER INFORMATION CONTACT:

Robert A. Archer (Oil and Gas Imports Division), Economic Regulatory Administration, Room 6304, RG-631, 2000 M Street NW., Washington, D.C. 20461, (202) 653-3623

Sue D. Sheridan (Office of General Counsel, Natural Gas and Mineral Leasing), 1000 Independence Avenue SW., Forrestal Building, Room 6E-042, Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION: The application before ERA seeks authorization to increase the daily import limit 60,000 Mcf per day from 809,000 Mcf per day to 869,000 Mcf per day effective November 1, 1982 through October 31, 1989. Northwest has also requested authorization to shift the place of entry to Kingsgate, British Columbia, for a certain amount of natural gas currently imported through Sumas, Washington. Jurisdiction over approval of the place of entry was specifically delegated by the Secretary of Energy to the Federal Energy Regulatory Commission (FERC) in Delegation Order No. 0204-55. Northwest has, however, submitted an identical application to the FERC and that agency will consider Northwest's request with respect to the place of entry.

A series of import authorizations precedes the current request from Northwest. The Sumas importation was initiated by Pacific Northwest Pipeline Company ("Pacific Northwest") in 1955 under authority granted by the Federal Power Commission (FPC) in Docket No. G-8932 (14 FPC 157). Upon merger of Pacific Northwest into El Paso Natural Gas Company ("El Paso"), the import was continued by El Paso under authority granted in Docket No. G-13019 (22 FPC 1091 and 28 FPC 7), and subsequently continued by Northwest after it acquired El Paso's Northwest System Division. Northwest's application states that prior to this acquisition the Sumas importation was authorized by the Federal Power Commission (FPC) in Docket No. CP70-138, as amended (43 FPC 723 and 45 FPC 252).

The gas imported at Sumas was delivered and sold by Westcoast to El Paso under an agreement dated October 10, 1969, as amended by agreements dated October 1, 1970, and November 27, 1970. Westcoast is authorized to export this gas under its Canadian National Energy Board (NEB) Export License GL-41. When Northwest acquired El Paso's Northwest System Division in 1974, Northwest continued the purchase of natural gas from Westcoast at the Sumas import point pursuant to the October 10, 1969 agreement, as amended.

The current Northwest application to ERA for increased daily imports derives from an agreement entered into by Westcoast and El Paso on July 20, 1979 (El Paso Agreement), for Westcoast to sell El Paso up to 60,000 Mcf per day at the Sumas import point. In order for this to occur, the NEB's Order No. AO-22-GL-41 of December 6, 1979, amended License GL-41 to authorize Westcoast an increase in export volumes from 809,000 Mcf per day to 869,000 Mcf per day. Westcoast states that the amendment did not increase the annual volumes previously authorized for export beyond the amount initially authorized by license GL-41.

El Paso's right to purchase the 60,000 Mcf per day passed to Northwest on December 1, 1981, when Northwest, Westcoast, and El Paso entered into a three-party agreement. The agreement gives Northwest the sole right to purchase the additional 60,000 Mcf per day available at the Sumas import point.

Northwest and Westcoast have also entered into two Letter Agreements creating additional terms for importation of the natural gas. First, the El Paso Agreement would be consolidated into the October 10, 1969 agreement and raise the daily volume to 869,000 Mcf per day from 809,000 Mcf per day. Second, Northwest will be required to purchase from Westcoast, or nevertheless, pay for, a minimum annual volume (MAV) calculated each year by the following formula:

$$MAV = 65\% \times \frac{\text{Authorized annual GL-41 volume for next 5 years}}{5}$$

(GL-41 is the relevant Canadian export authorization approved by the NED for Westcoast). The MAV is subject to adjustment under certain circumstances such as inability to deliver. Third, the point of importation of certain amounts of natural gas would shift from Sumas, Washington, to Kingsgate, British Columbia. Finally, Northwest will pay to Westcoast a proportionate share of the cost of delivering the gas at the international border. These costs will include both fixed and the incremental fuel costs incurred by Westcoast to raise the compression of the delivered gas from 500 psia to 600 psia during 1983, 1984 and 1985.

The price to be paid for the proposed import is the currently authorized price of U.S. $4.94 per MMBtu for Canadian natural gas.

According to the application, the additional 60,000 Mcf per day import is required to support a proposed sale of up to 325,000 Mcf per day by Northwest to either Texas Eastern Transmission Company (Texas Eastern), or Transwestern Pipeline Corporation (Transwestern), or to both firms. An

application has been filed with the FERC by Northwest seeking authorization for both the sale and the construction of facilities needed to carry out the sale to these firms.

Northwest cites three factors in support of the importation: the import will support the proposed sales to Texas Eastern and Transwestern; the import will help assure long-term supply in the Pacific Northwest through increased purchases from British Columbia and encouragement of the development of British Columbia's reserves; and the increased sales will relieve British Columbia's need to find other U.S. or foreign markets for its gas reserves.

Other Information: Any person wishing to become a party to the proceeding or to participate as a party in any conference or hearing which might be convened must file a petition to intervene. Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements specified in 18 CFR 1.8. and 1.10. They should be filed with the Natural Gas Branch, Economic Regulatory Administration, Room 6304, RG–631, 2000 M Street NW., Washington, D.C. 20461. All protests and petitions to intervene must be filed no later than 4:30 p.m., April 12, 1982.

A hearing will not be held unless a motion for a hearing is made by a party or person seeking intervention and granted by ERA, or if ERA on its own motion believes that a hearing is necessary or required. A person filing a motion for hearing should demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Northwest's application is available for public inspection and copying in the Natural Gas Branch Docket Room, Room 6013, 2000 M Street NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on March 8, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–6792 Filed 3–11–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

Oil Pipeline; Tentative Valuation

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative valuation is under consideration for the common carrier listed below:

1978, 1979, 1980 Consolidated Report (March 11, 1982)

Valuation Docket No. PV–1458–000; Pogo Offshore Pipeline Company, P.O. Box 2504, Houston, TX 77001

On or before April 18, 1982, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 70 of the Interstate Commerce Commission's "General Rules of Practice" (49 CFR 1100.70), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 82–6781 Filed 3–11–82; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Cases Filed; Week of February 5 through February 12, 1982

During the week of February 5 through February 12, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

March 5, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Feb. 5 through Feb. 12, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 5, 1982	Economic Regulatory Administration (Office of the Solicitor), Washington, DC.	HRD–0030	Motion for Discovery. If granted: Murphy Oil Corporation would provide additional answers and documents in connection with the Motion for Discovery granted to the Economic Regulatory Administration (Case No. BRD–0067).
Feb. 5, 1982	Economic Regulatory Administration (Office of the Solicitor), Washington, DC.	HRD–0031	Motion for Discovery. If granted: Marathon Oil Company would provide additional answers and documents in connection with the Motion for Discovery granted to the Economic Regulatory Administration (Case No. BRD–0064).
Feb. 5, 1982	Mobil Oil Corp., New York, NY	HRD–0029	Motion for Discovery. If granted: The Proposed Order of Disallowance issued by the DOE to Mobil Oil Corporation would be dismissed and the Office of Hearings and Appeals would issue additional answers and documents in connection with the Motion for Discovery granted to Mobil (Case No. BRD–1148).
Feb. 5, 1982	Spruce Oil Corporation, Denver, CO	HRD and HRH–0028	Motion for Discovery and Motion for Evidentiary Hearing. If granted: Discovery would be granted and an Evidentiary Hearing would be convened in connection with the Statement of Objections submitted in response to the Sept. 30, 1981, Proposed Remedial Order (Case No. HRO–0006) issued to Spruce Oil Corporation.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Feb. 5 through Feb. 12, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 8, 1982	Bracewell & Patterson, Washington, DC	HFA-0038 and HFA-0039	Appeal of Information Request Denials. If granted: The Jan. 7, 1982, Information Request Denial issued by the Office of Fuels Programs would be rescinded, and Bracewell & Patterson would receive access to certain DOE information, regarding crude oil reseller regulations.
Feb. 8, 1982	Holmes & Narver, Inc., Los Angeles, CA	HFA-0037	Appeal of an Information Request Denial. If granted: The Jan. 8, 1982, Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and Holmes & Narver, Inc. would receive access to certain DOE information regarding contract evaluation materials.
Feb. 8, 1982	Kentucky Oil & Refining Company, Betsey Lane, KY	HYX-0013	Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Kentucky Oil & Refining Company during its fiscal year ended Dec. 31, 1980, to determine whether the level of relief accorded the firm was appropriate.
Feb. 8, 1982	Marathon Oil Company, Washington, DC	HRD-0032	Motion for Discovery. If granted: The Economic Regulatory Administration would provide additional answers and documents in connection with the Motion for Discovery granted to Marathon Oil Company (Case No. BRD-0983).
Feb. 8, 1982	Murphy Oil Company, Washington, DC	HRD-0033	Motion for Discovery. If granted: The Economic Regulatory Administration would provide additional answers and documents in connection with the Motion for Discovery granted to Murphy Oil Corporation (Case No. BRD-0984).
Feb. 8, 1982	Paul Lamberth & Associates, Inc., Aurora, CO	HFA-0036	Appeal of an Information Request Denial. If granted: The Jan. 12, 1982, Information Request Denial issued by the Inspector General's Office of the Department of Energy would be rescinded, and the firm would receive access to the drafts of a document prepared by the DOE in connection with an enforcement matter.
Feb. 8, 1982	Taylor & Stauffer, McLean, VA	HFA-0034 and HFA-0035	Appeals of Information Request Denials. If granted: The Jan. 20, 1982, Information Request Denials issued by the Director of the Kansas City Office, Economic Regulatory Administration would be rescinded, and Taylor & Stauffer would receive access to certain DOE information regarding the separate inventory rule and unrecouped increased product costs.
Feb. 8, 1982	Teledyne Laars and Raypak, Inc., Covina, CA	HXE-0012 and HXE-0013	Exception from the Energy Conservation Program for Consumer Products. If granted: Teledyne Laars and Raypak, Inc. would receive an exception from the provisions of 10 CFR Part 430 which would permit the firm to modify the energy efficiency test procedures applicable to FCT boilers.
Feb. 11, 1982	Little America Refining Company, Washington, DC	HYX-0014	Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Little America Refining Company during its fiscal year ended June 30, 1979, to determine whether the level of relief accorded the firm was appropriate.
Feb. 11, 1982	OSC/Texaco, Inc., Washington, DC	HRZ-0017	Interlocutory Order. If granted: The Jan. 29, 1982, Decision and Order (Case No. HRD-0019) issued to Texaco, Inc. by the Office of Hearings and Appeals would be modified.
Feb. 12, 1982	BPM, Inc., Washington, DC	HFA-0040	Appeal of an Information Request Denial. If granted: The Feb. 2, 1981, Information Request Denial issued by the Office of General Counsel would be rescinded and BPM, Inc. would receive access to certain DOE information.
Feb. 12, 1982	Stoudnour Atlantic Inc., Saxton, PA	HEE-0014	Exception to the Reporting Requirements. If granted: Stoudnour Atlantic Inc. would not be required to file form EIA-9A No. 2 Distillate Price Monitoring Report.

[FR Doc. 82-6793 Filed 3-11-82; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of February 12 Through February 19, 1982

During the week of February 12 through February 19, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

March 5, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Feb. 12 through Feb. 19, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 16, 1982	Ashland Oil Inc./Tosco Corporation, Ashland, KY	HEJ-0003	Motion for Protective Order. If granted: Ashland Oil Inc. would enter into a protective order with Tosco Corporation regarding the confidentiality of materials in connection with Ashland's Motion for Discovery (Case No. HED-0020).
Feb. 16, 1982	Rogers Fuels, Inc., Middlebury, VT	HEE-0015	Exception from reporting requirements. If granted: Rogers Fuels, Inc. would not be required to file Form EIA-9A ("No. 2 Distillate Price Monitoring Report").
Feb. 17, 1982	Gulf Oil Corporation and Office of Solicitor, Washington, DC.	HRJ-0004	Motion for Protective Order. If granted: The Office of Hearings and Appeals would issue a Protective Order between Gulf and the Office of Solicitor indicating the conditions governing Gulf's use of certain privileged information released to the firm.
Feb. 17, 1982	Premier Oil Company, Wilmington, DE	HEE-0016	Exception from reporting requirements. If granted: Premier Oil Company would not be required to file Form EIA-9A ("No. 2 Distillate Price Monitoring Report").

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Feb. 12 through Feb. 19, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 17, 1982	Thompson Oil Company, Waynesboro, PA	HEE-0017	Exception from reporting requirements. If granted: Thompson Oil Company would not be required to file Form EIA-9A ("No. 2 Distillate Price Monitoring Report").
Feb. 18, 1982	Memphis Aero Corporation, Washington, DC	HRR-0022, HRS-0022, and HRT-0022.	Request for Modification/Rescission; Request for Stay and Temporary Stay. If granted: The refund provisions contained in the Nov. 20, 1981 Remedial Order issued to Memphis Aero Corporation by the Office of Hearings and Appeals would be modified. Memphis Aero Corporation would also receive a stay and a temporary stay of the provisions of the Remedial Order pending a final determination on its application for modification.

[FR Doc. 82-6794 Filed 3-11-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements

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 Agreement for Cooperation Between the Government of the United States of America and the Government of the Arab Republic of Egypt Concerning Peaceful Uses of Atomic Energy.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval for the supply of fuel for nuclear power units 3 and 4, each of which has a planned generating capacity of between 900 and 1,000 gross megawatts. Contract numbers DE–SC05–82UBBG 102 and 103 have been assigned to these proposed subsequent arrangements.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than March 29, 1982.

For the Department of Energy.

Dated: March 9, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-6782 Filed 3-11-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

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 arrangement" under the Agreement for Cooperation Between the Government of the United States of American and the Government of Australia Concerning Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply of 29.35 grams of natural uranium and 4.4 grams of thorium to the Occupational Health and Radiation Control Section, South Australian Health Commission, for use as standard reference materials, under Contract Number S–AU–113.

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 March 29, 1982.

For the Department of Energy.

Dated: March 9, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-6783 Filed 3-11-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S–CA–320, to Eldorado Nuclear Ltd., Ontario, Canada, 104 grams of natural uranium, in the form of metal, for use as standard reference material.

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 than March 29, 1982.

For the Department of Energy.

Dated: March 9, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-6784 Filed 3-11-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

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 following material: Contract Number WC–EU–223, to the Universite De Leige, Belgium, 20 milligrams of plutonium-242, to be used for the study of thermodynamic and magnetic susceptibility of compounds.

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 than March 29, 1982.

For the Department of Energy.

Dated: March 9, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-6785 Filed 3-11-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

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 of the following sale:

Contract Number S-EU-720, to the Comitato Nazionale Energia Nucleare, Milan, Italy, 2 grams of depleted uranium, 423.84 grams of natural uranium, and 26 grams of uranium enriched to an average of 43.6% in U-235, for use as standard reference material.

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 than March 29, 1982.

For the Department of Energy.

Dated: March 9, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-6786 Filed 3-11-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

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, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the retransfer of 732 grams of uranium, enriched to 0.95% in U-235, and 6 grams of plutonium contained in four irradiated fuel rods from Sweden to the Federal Republic of Germany for post-irradiation examination.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement, designated as RTD/EU(SW)-65, will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 29, 1982.

For the Department of Energy.

Dated: March 9, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-6787 Filed 3-11-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

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, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Norway Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer: RTD/EU(NO)-37, from Norway to the Netherlands, one irradiated test fuel assembly for post-irradiation examinations. Final disposition of any waste will be carried out by the Netherlands Energy Research Foundation. The irradiated fuel assembly contains 10.213 kilograms of uranium, 462.6 grams of U-235 (4.54% enrichment) and 91 grams of plutonium.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 29, 1982.

For the Department of Energy.

Dated: March 9, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-6788 Filed 3-11-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for supply of the following material: Contract Number S-IE-6, to the Research Center for Nuclear Materials and Instrumentation, Yogyakarta, Indonesia, 51 grams of natural uranium, 1 gram of depleted uranium, 13.1 grams of uranium enriched to an average of 50.76% U-235, 0.005 grams of U-233, and 0.75 grams of plutonium, for use as standard reference materials.

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 arrangment will take effect no sooner than March 29, 1982.

For the Department of Energy.

Dated: March 9, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-6789 Filed 3-11-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

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 Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil 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-JA-308, to the Power Reactor and Nuclear Fuel Development Corporation, Tokyo, Japan, 20 grams of plutonium-239 for use as standard reference material. License

XSNM1617 has been issued by the U.S. Nuclear Regulatory Commission for export of this material.

Contract Number S–JA–309, to Nuclear Fuel Industries, Ltd., Tokyo, Japan, 5 grams of uranium containing 5.01% U–235, 5 grams of uranium containing 2.0% U–235, 5 grams of uranium containing 3.0% U–235, and 5 grams of uranium containing 0.5% U–235 for use as standard reference material.

Contract Number S–JA–310, to Japan Nuclear Fuel Conversion Co., Inc., Tokyo, Japan, 4 grams of uranium containing 5.01% U–235, for use as standard reference material.

Contract Number S–JA–313, to the Power Reactor and Nuclear Fuel Development Corp., Tokyo, Japan, 6 grams of plutonium-239, for use as standard reference material.

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 susequent arrangements will take effect no sooner than March 29, 1982.

For the Department of Energy.

Dated: March 9, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82–6790 Filed 3–11–82; 8:45 am]

BILLING CODE 6450–01–M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S–JA–311, to the Japan Atomic Energy Research Institute, one gram of plutonium–238, to be used for the evaluation testing of irradiation effects on vitrified high level radioactive waste at the waste testing facility WASTEF.

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 than March 29, 1982.

For the Department.

Dated: March 9, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82–6791 Filed 3–11–82; 8:45 am]

BILLING CODE 6450–01–M

Western Area Power Administration

Pick-Sloan Missouri Basin Program; Proposed Power Rate Adjustment

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of an amendment to the proposed rate adjustment—Pick-Sloan Missouri Basin Program.

SUMMARY: The notice of the proposed power rate adjustment for the Pick-Sloan Missouri Basin Program which was published at 47 FR 6705 (February 16, 1982) is hereby amended as follows:

Persons planning to speak at the comment forums should send their names and affiliation to the address noted below by March 19, 1982, so that a speaker list may be developed.

ADDRESS: Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101, Telephone: (406) 657–6532.

Other persons will be allowed to comment at the comment forums. Written comments may be submitted to the above address throughout the consultation and comment period.

Documents used in developing the proposed rates are available for inspection and/or copying at the above address.

Issued at Golden, Colorado, March 4, 1982.

William H. Clagett,

Deputy Administrator.

[FR Doc. 82–6796 Filed 3–11–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–59083; TSH–FRL–2073–8]

Certain Chemicals; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the Federal Register of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by March 29, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–59083]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Effective with this notice a nonsubstantive change in format is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act (TSCA). The notices will contain essentially the same information but in an abbreviated form. Included in the modified format is the use of the letters "S" (specific) and "G" (generic) to denote specific and generic chemical identity and use. In addition, the Close of Review Period will appear before the Comment Period in the summary. The following are summaries of information provided by the manufacturer on the TMEs received by the EPA:

TME 82–6

Manufacturer. Confidential.

Chemical. (G) Disubstituted glycine.

Use/Production. (G) Site-limited intermediate. Prod. range. Max. 5,000 kg/yr.

Toxicity Data. Acute oral LD_{50} – 2,300 to 2,500 mg/kg; Acute dermal LD_{50} – >1,000 mg/kg; Skin irritant—Slight; Eye irritant—Strong; Ames test—Negative; Skin sensitization—Low.

Exposure. Manufacture: 10 people, dermal and inhalation, 2 hrs/da, 3 da/yr. Use and processing: 10 people, dermal and inhalation 2 hrs/da, 16 da/yr.

Processing: 10 people, dermal, 2 hrs/da, 16 da/yr.

Environmental Release/Disposal. Water—34 kg max. Disposal by incineration or publicly owned treatment works (POTW).

TME 82–7

Importer. Confidential.

Chemical. (G) 4,4'Thio diether dianhydride.

Use/Import. (G) Specialty adhesives. Import range. Max. 500 lbs.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: March 8, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-6736 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51404; TSH-FRL-2074-1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of nine PMNs and provides a summary of each.

DATES: Close of Review Period: PMN 82–166—May 26, 1982. PMN 82–167—May 30, 1982. PMN 82–168, 82–169 and 82–170—May 31, 1982. PMN 82–171 and 82–174—June 1, 1982. PMN 82–172 and 82–173—June 2, 1982.

Written comments by: PMN 82–166—April 26, 1982. PMN 82–167—April 30, 1982. PMN 82–168, 82–169 and 82–170—May 1, 1982. PMN 82–171 and 82–174—May 2, 1982. PMN 82–172 and 82–173—May 3, 1982.

ADDRESS: Written comments, identified by the document control nunber "[OPTS-51404]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: Effective with this notice, a nonsubstantive change in format is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act (TSCA). The notices will contain essentially the same information but in an abbreviated form. Included in the modified format is the use of letters "S" (specific) and "G" (generic) to denote specific and generic chemical identity and use. In addition, the Close of Review Period will appear before the Comment Period in the summary. The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82–166

Manufacturer. Confidential.

Chemical. (G) Disubstituted-6,13-dichloro-4, 11-triphenodioxazine disulfonic acid.

Use/Production. Confidential. Prod. range. Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg, Skin: Non-irritant, Eye: Mild/moderate irritant.

Exposure. None anticipated.

Environmental Release/Disposal. Non anticipated.

PMN 82–167

Manufacturer. Confidential.

Chemical. (G) Disubstituted benzene.

Use/Production. (G) Site-limited chemical intermediate. Prod. range. 12,000–16,000 kg/yr.

Toxicity Data. Acute oral: 1,600 to 1,900 mg/kg, Acute dermal: >1,000 mg/kg, Skin: Slight, Eye: Moderate.

Exposure. Manufacturer and use: dermal and inhalation, up to 150 workers, up to 2 hrs/da, 5 da/yr.

Environmental Release/Disposal. No release. Disposal: Incineration and biological treatment system.

PMN 82–168

Manufacturer. Confidential.

Chemical. (G) Polyurethane of substituted alkanols and a diisocyanate.

Use/Production. (G) Open use. Prod. range. 0–1,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacturer, processing and use: a total of 174 workers, dermal and eye, up to 6 hrs/da, 250 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr to air and water, 10–10,000 kg/yr to land. Disposal: Incineration.

PMN 82–169

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Polymer of alkyl and polyfluoroalkyl acrylates.

Use/Production. (S) Synthetic fiber finish. Prod. range. Confidential.

Toxicity Data. Acute oral: 25,000 mg/kg, Skin: Mild irritant, Eye: Slight irritant, Human patch test: Non-sensitizing.

Exposure. Manufacturer: Dermal, inhalation and ingestion 4 hrs/wk, 30 wk.

Environmental Release/Disposal. Disposal: Approved landfill.

PMN 82–170

Manufacturer. Confidential.

Chemical. (S) 1,6-hexanedioic acid, polymer with 1,2-ethanediol, 1,3-benzenedicarboxylic acid, 1,4-benzenedicarboxylic acid, and 1,6-hexanediol.

Use/Production. (G) Open use. Prod. range. 1,500–100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing and use: 12 workers, dermal, up to 8 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. Land. Disposal: Approved landfill.

PMN 82–171

Importer. Confidential.

Chemical. (G) Aromatic substituted triazine disazo dye, tetrasodium salt.

Use/Production. (G) Textile dye. Prod. range. 500–5,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing, use and disposal: 80 workers, dermal and inhalation, up to 4 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. 10 kg/yr to air ½ hr/da, 120 da/yr, 100–1,000 kg/yr to water. Disposal: Publicly owned treatment works (POTW) and incineration.

PMN 82–172

Manufacturer. Milliken and Company.

Chemical. (G) Chromophore substituted poly(oxyalkylene).

Use/Production. (G) Colorant. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 82–173

Manufacturer. Confidential.

Chemical. (G) Borate esters-mixture.
Use/Production. (G) Contained system. Prod. range. Confidential.
Toxicity Data. Acute oral: >5 g/kg, Acute dermal: >2 g/kg, Skin: 1.6/8.0, Eye: 7.3/110 @ 24 hrs decreasing to 0.3/110 @ 72 hrs, Ames Test: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 82-174

Manufacturer. American Cyanamid Company.
Chemical. (G) Substituted acrylamide polymer.
Use/Production. (S) Mineral processing agent in recovery of mineral values from ores. Prod. range. Confidential.
Toxicity Data. Acute oral: >5 g/kg, Acute dermal: >2 g/kg, Eye: Minimal, Ames Test: Negative.
Exposure. Manufacture, processing, and use: a total of 37 workers, up to 24 hrs/da, up to 300 da/yr.
Environmental Release/Disposal. Release is negligible. Disposal: POTW.

Dated: March 8, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-6737 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-31-M

[A-6-FRL-2071-5]

Delegation of Authority to the State of Texas for Prevention of Significant Deterioration (PSD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: EPA Region 6 has delegated the authority for technical and administrative review of the Prevention of Significant Deterioration (PSD) program to the Texas Air Control Board (TACB). The TACB will receive, conduct technical review, and process the PSD applications; however, since the TACB did not request full delegation of authority, EPA Region 6 will continue to have responsibility to issue or deny the PSD permits.

EFFECTIVE DATE: April 23, 1981.

ADDRESS: Copies of the State request and State-EPA agreement for delegation of authority are available for public inspection at the Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270; (214) 767-1594 or (FTS) 729-1594.

SUPPLEMENTARY INFORMATION: On November 10, 1980, the Texas Air Control Board submitted to the EPA Region 6 office a request for EPA to delegate to them the responsibility for technical and administrative review authority of sources regulated under the EPA PSD program. After a thorough review of the request and information submitted, the Regional Administrator determined that the State's procedures for PSD review are adequate and effective. Thus, on April 23, 1981, and pursuant to 40 CFR 52.21 (1980), the Regional Administrator delegated the authority for technical and administrative review portions of the Federal PSD program to the State of Texas. The conditions of the delegation are delineated in the Regional Administrator's letter to the State dated April 23, 1981.

Effective immediately, all applications and other information pursuant to 40 CFR 52.21 by sources locating in the State of Texas should be submitted to the State agency at the following address: Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

(Secs. 101, 301, Clean Air Act, as amended (42 U.S.C. 7401, 7601))

Dated: March 1, 1982.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 82-6735 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-32-M

[ER-FRL-2074-3]

Availability of Environmental Impact Statements Filed March 1 through 5, 1982, Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, Ms. Kathi Wilson, (202) 245-3006.

Corps of Engineers:
- EIS No. 820113, Draft, COE, KS, Main Branch Chisholm Creek Flood Control Project, Sedgwick County, Due: Apr. 26, 1982
- EIS No. 820105, Draft, COE, SEV, MS-LA Yazoo Backwater Area Pump/Flood Control Project, Due: Apr. 26, 1982
- EIS No. 820115, Draft, COE, SD, Gregory Hydroelectric Pumped Storage Facility, Gregory County, Due: Apr. 26, 1982
- EIS No. 820106, F Suppl, COE, CA, San Luis Rey River Flood Control Project, San Diego County, Due: Apr. 12, 1982

Department of Energy:
- EIS No. 820114, Final, DOE, SC, Savannah River Plant, Waste Processing Faiclity, Due: Apr. 12, 1982

Department of Transportation:
- EIS No. 8201111, Draft, FHW, MD, I-370 Construction, I-270 to Shady Grove Station, Montgomery County, Due: Apr. 30, 1982
- EIS No. 820112, Draft, FHW, OH, Buckeye Basin Greenbelt Parkway Construction, Lucas County, Due: Apr. 26, 1982
- EIS No. 820108, Final, FHW, CA, I-101, Santa Barbara Crosstown Freeway, Santa Barbara County, Due: Apr. 12, 1982

Department of Housing and Urban Development:
- EIS No. 820107, Final, HUD, PR, Monte Brisas Y Housing Project, Mortgage Insurance, Due: Apr. 12, 1982
- EIS No. 820110, Draft, CDB, CA, Valley Boulevard Redevelopment Project, Los Angeles County, CDBG, Due: Apr. 26, 1982

Department of Agriculture:
- EIS No. 820109, Draft, SCS, PA, Upper Tioga River Watershed Flood Protection Plan, Tioga County, Due: Apr. 26, 1982

Amended Notice:
- EIS No. 820048, Draft, CGD, NY, South Bronx-Oak Point Link Railroad Improvement, Permit, Published FR 2-12-82—Review Extended, Due: May 3, 1982

Dated: March 9, 1982.

Louis J. Cordia,

Acting Director, Office of Federal Activities.

[FR Doc. 82-6820 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-37-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 22, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United

States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreement No. T-3971-1.

Filing party: Donald J. Brunner, Esq., Ragan & Mason, The Farragut Building, 900 Seventeenth Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. T-3971-1, between Tropical Shipping and Construction Company, Ltd. (Tropical) and Birdsall, Inc. (Birdsall), modifies the basic agreement between the parties which provides for the appointment of Birdsall as U.S. agent for Tropical to supervise and manage its business activities in the United States. The purpose of the modification is to delete from the agreement the specified charges which Birdsall will assess Tropical for services rendered. Tropical agrees to submit to the Commission a schedule of whatever charges might be made prior to their effective date.

Dated: March 9, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-6773 Filed 3-11-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, April 1, 1982
Thursday, April 8, 1982
Thursday, April 15, 1982
Thursday, April 22, 1982
Thursday, April 29, 1982

These meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washington, D.C. 20415 (202-632-9710).

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

March 5, 1982.

[FR Doc. 82-6733 Filed 3-11-82; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

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, except as noted, received by the appropriate Federal Reserve Bank not later than April 1, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Correction

1. *Barclays Bank Limited* and its subsidiary, *Barclays Bank International, Limited*, each a bank holding company whose principal office is in London, England (secured business lending, primarily real estate Louisville, Kentucky): This notice corrects a previous **Federal Register** document (FR Doc. 82-5344) published at page 8678 of the issue for March 1, 1982. The proposed activity would be conducted from an existing Barclays/American Mortgage, Inc. office located at 1930 Bishop Lane, Waterson Towers, Suite 720, Louisville, Kentucky 40218.

2. *Citicorp*, New York, New York (export finance company activities; foreign countries): To engage through a *de novo* subsidiary, Citicorp Export Credit Corporation ("CECC"), in the making of loans to foreign importers to

finance purchases of goods and services of United States manufacture or origin and/or costs incidental thereto. Foreign importers seeking loans would be referred to CECC by Citibank overseas branch offices or other financial institutions, and such loans would be made or acquired by CECC from an office located in New York, New York.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

Barnett Banks of Florida, Inc., Jacksonville, Florida (check verification services; Mississippi and Tennessee): To engage through its subsidiary, Verifications, Inc., in offering from three additional offices, check verification services, including authorizing subscribing merchants to accept certain personal purchase money checks and obligating Verifications, Inc. to purchase properly verified checks which are subsequently dishonored. These activities would be conducted from an office located in Jackson, Mississippi, an office located in Knoxville, Tennessee and an office located in Nashville, Tennessee, as well as from the principal office of Verifications, Inc., located at 4160 Woodcock Drive, Suite 100, Jacksonville, Florida 32207, and would serve the States of Mississippi and Tennessee.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *DetroitBank Corporation*, Detroit, Michigan, (investment advisory activities; United States): To engage, through its subsidiary DBT Investment Advisers, Inc., in the activity of acting as an investment and financial adviser as defined in section 2(a)(20) of the Investment Company Act of 1940, to one or more investment companies registered under that Act. These activities will be conducted from an office in Detroit, Michigan, serving the continental United States. Comments on this application must be received not later than March 27, 1982.

2. *Northern Trust Corporation* Chicago, Illinois (banking, trust business, Illinois, Florida, Arizona): To engage, through its subsidiary, Nortrust Farm Management, Inc., in activities of an agricultural nature, including managing farms and purchasing, arranging for the feeding of and selling livestock, as agent for any one of the following organizations, each of which is a wholly-owned (except in some cases for directors' qualifying shares) subsidiary of Northern Trust Corporation, when such subsidiary is acting as a trustee, executor, personal representative, guardian or conservator: The Northern Trust Company of Arizona, the principal office of which is located in Phoenix, Arizona; Security Trust Company of Miami, Florida; Security Trust Company of Sarasota N.A., of Sarasota, Florida; Security Trust Company of Naples, of Naples, Florida; and Security Trust Company of Palm Beach, of Palm Beach, Florida. Such activities will be performed at offices at 1900 Spring Road, Suite 102, Oak Brook, Illinois 60521; 6061 Northwest Expressway, Suite 425, San Antonio, Texas 78201; 5050 Poplar Avenue, Memphis, Tennessee 38157; and 2520 North Monroe Street, Suite 105, Tallahassee, Florida 32302. The business of Nortrust Farm Management, Inc. is to be derived solely from the above subsidiaries of Northern Trust Corporation and will not be solicited from the public. The geographic area to be served consists of the 50 States of the United States.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Seafirst Corporation*, Seattle, Washington (commercial finance activities; Louisiana and California): To engage through Seafirst Commercial Corporation in making or acquiring loans and other extensions of credit including commercial loans secured by a borrower's inventory, accounts receivable, capital equipment or other assets; servicing loans and leasing personal property. These activities would be conducted from offices in New Orleans, Louisiana, serving the State of Louisiana, and Sacramento, California, serving the State of California.

2. *Security Pacific Corporation*, Los Angeles, California (commercial financing and factoring activities; United States): To engage through its subsidiary, Security Pacific Business Credit Inc. in making or acquiring for its own account or for the account of others, asset based business loans and other commercial or industrial loans and extension of credit such as would be made by a factoring, rediscount or commercial finance company and engaging generally in the factoring business. These activities would be conducted from offices of Security Pacific Business Credit Inc. in Newport Beach, California; San Francisco, California; San Jose, California; and Dallas, Texas; serving the United States.

3. *U.S. Bancorp*, Portland, Oregon (financing and insurance activities; Utah): To engage through its subsidiary, U.S. Thrift & Loan, in making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own acount or the account of others, including, but not limited to commercial, rediscount and installment sales contracts; to issue thrift certificates and passbooks; and, to act as insurance agent with regard to credit life and disability insurance solely in connection with extensions of credit in conformance with Regulation Y. These activities would be conducted from an office in Brigham City, Utah, serving Box Elder County, Utah.

E. **Other Federal Reserve Bank.** None.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6695 Filed 3-11-82; 8:45 am]

BILLING CODE 6210-01-M

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, except as noted, received by the appropriate Federal Reserve Bank not later than April 9, 1982.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106

Industrial National Corporation, Providence, Rhode Island (commercial mortgage lending activities; Rhode Island): To engage, through its indirect subsidiary, Mortgage Associates, Inc., in commercial mortgage lending activities including the origination and purchase of commercial mortgage loans. These activities would be conducted from a new office to be located in Providence, Rhode Island serving the State of Rhode Island.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank Limited* and its subsidiary, *Barclays Bank International Limited,* London, England (relocation of consumer finance activity; Idaho): To engage through their subsidiary, BarclaysAmerican/Financial, Inc., in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholesale financing (floor planning); and acting as agent for the sale of related credit life, credit accident and health and credit property insurance. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by BAC's insurance underwriting subsidiaries. This activity would be conducted from an office of BAC located at 803 Main Street, Lewiston, Idaho, serving customers in Lewiston and surrounding areas in Idaho. This notification is for the relocation of an existing office located at 118 East Third Street, Moscow, Idaho.

2. *The Chase Manhattan Corporation,* New York, New York (finance, servicing, and leasing activities; Northeastern U.S.): To engage through its indirect subsidiary, Chase Commercial Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance, equipment finance or factoring company, including factoring accounts receivable, making advances and over-advances on receivables and inventory and business installment lending as well as unsecured commercial loans; servicing loans and other extensions of credit; leasing personal property on a full payout basis and in accordance with the Board's Regulation Y, or acting as agent, broker or advisor in so leasing such property, including the leasing of motor vehicles. These activities would be conducted from an office in Holyoke, Massachusetts serving the States of Connecticut, Maine, New Hampshire, Rhode Island, Massachusetts, and Vermont.

3. *Manufacturers Hanover Corporation,* New York, New York (consumer finance and insurance activities; South Carolina): To relocate an office of its subsidiary, Finance One of South Carolina, Inc., in Anderson, South Carolina. The subsidiary is authorized to engage in consumer finance, sales finance, home equity lending, and credit related insurance activities. The office will continue to serve customers in Anderson, southern Oconee, southern Pickens, southwestern Greenville, western Laurens, northern Abbeville, and northern Greenwood counties. Comments on this application must be received not later than March 29, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 915 Grand Avenue, Kansas City, Missouri 64198:

1. *FirstBank Holding Company of Colorado,* Lakewood, Colorado (issuance of travelers checks; Colorado): To engage in the issuance of travelers checks. This activity will be conducted from Applicant's principal office and will serve those areas served by Applicant's banking subsidiaries. Comments on this application must be received not later than March 29, 1982.

2. *Midland Capital Co.,* Oklahoma City, Oklahoma (leasing of personal property; United States): to engage through a *de novo* subsidiary, Midland Leasing Co., in leasing personal property to businesses, individuals, and government entities, through non-operating leases that serve as the functional equivalent of extensions of credit. This activity will be conducted from offices of the subsidiary in Oklahoma City, Oklahoma, and will be conducted through lease brokers in Oklahoma that serve the entire United States. Comments on this application must be received not later than April 2, 1982.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BSD Bancorp, Inc.,* San Diego, California (data processing and related courier activities; San Diego County, California): To engage through its subsidiary, BSD Datacorp, Inc., a California corporation, in the activities of data processing and transmission services. Such activities will include, but not be limited to: proof; data capture, balancing and transmission to an independent data processor; check filing, statement preparation and mailing; and provision of pick-up and delivery of items processed to and from the client banks. Such activities, conducted from a *de novo* office in San Diego, California, serving the county of San Diego, will be available to BSD Bancorp, Inc.'s subsidiary banks and non-subsidiary banks who are users of City National Bank's computer services.

2. *BankAmerica Corporation,* San Francisco, California (financing and servicing activities; *de novo* commercial loans office; all fifty (50) States and the District of Columbia): To engage, through its indirect subsidiary, BA Commercial Corporation, a Pennsylvania corporation, in the activities of making loans and other extensions of credit and acquiring loans, participations in loans and other extensions of credit such as would be made or acquired by a finance company. Such activities will include, but not be limited to, inventory and accounts receivable financing; equipment financing; insurance premium financing; making loans to non-affiliated finance and leasing companies secured by pledges of accounts receivable of such companies; making loans secured by real or personal property; and purchasing retail installment sales contracts. In addition BA Commercial Corporation proposes to engage in the activities of servicing loans, participations of loans and other extensions of credit for itself and others in connection with extensions of credit made or acquired by BA Commercial Corporation. Credit-related insurance will not be offered by BA Commercial Corporation in connection with its lending activities. These activities will be conducted from a *de novo* office located in Orange, California, serving all fifty (50) States and the District of Columbia.

3. *Security Pacific Corporation,* Los Angeles, California (industrial loan, financing and credit-related insurance activities; California): To engage, through its subsidiary, Security Pacific Finance Money Center Inc., in financing and industrial loans corporation activities, including making, acquiring and servicing loans and other extensions of credits; selling and issuing investment certificates; and acting as agent for the sale of credit-related life, credit-related accident and health, and credit-related property insurance, as authorized by California law. These activities would be conducted from offices of the subsidiary in Fullerton and Walnut Creek, California, serving the

State of California. Comments on this application must be received not later than April 2, 1982.

E. **Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, March 8, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6694 Filed 3-11-82; 8:45 am]

BILLING CODE 6210-01-M

Taylor County Bancshares, Inc.; Formation of Bank Holding Company

Taylor County Bancshares, Inc., Campbellsville, Kentucky, 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 of the voting shares of Taylor County Bank, Campbellsville, Kentucky. 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)).

Taylor County Bancshares, Inc., Campbellsville, Kentucky, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Taylor County Insurance Agency, Inc., Campbellsville, Kentucky.

Applicant states that the proposed subsidiary would engage in credit-related insurance agency activities. These activities would be performed from offices of Applicant's subsidiary in Campbellsville, Kentucky, and the geographic areas served are those to be served by Applicant's banking subsidiary. 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 St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than April 4, 1982.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6696 Filed 3-11-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Office of the Administrator

General Services Administration Advisory Board; Meeting

Notice is hereby given that the GSA Advisory Board will meet on March 29, 1982, from 8:00 a.m. to 4:00 p.m. in Room 6120, 18th and F Streets, NW., Washington, D.C. 20405. The meeting will be devoted to several Subcommittee sessions, discussion of Subcommittee issues, and related matters of concern to the operations of the General Services Administration. This meeting will be open to the public.

For further information or an agenda, contact Roger C. Dierman, Deputy Associate Administrator—(202) 523-1141.

Dated: March 11, 1982.

Charles S. Davis III,

Associate Administrator.

[FR Doc. 82-6699 Filed 3-11-82; 10:21 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time and place. April 15, and 16, 9 a.m., Rms. 703-727A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and excutive secretary. Open public hearing, April 15, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, April 16, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; George C. Murray, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before April 1, 1982, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On April 15 the committee will discuss premarket approval applications (PMA's) and statistical/epidemiological questions pertaining to intraocular lenses (IOL's), and may discuss PMA's for other ophthalmic products. If discussion of all pertinent IOL issues is not completed, discussion will be continued the following day. On April 16 the committee may discuss PMA's or general issues relating to contact lens products.

Closed committee deliberations. On April 15 and 16 the committee will conduct reviews of PMA's for intraocular lens applications. These portions of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Section 10.210 (21 CFR 10.210) of FDA's procedural regulations requires FDA to give notice of the availability of reimbursement for participation and certain FDA proceedings including advisory committee meetings. However, on November 27, 1981, the United States Court of Appeals for the Fourth Circuit held that FDA does not have authority to reimburse public participants in its administrative proceedings. *Pacific Legal Foundation* v. *Goyan*, No. 80–1854 (4th Cir. November 27, 1981). Accordingly, reimbursement will not be available for participation in the proceedings described in this notice.

Dated: March 8, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82–6716 Filed 3–11–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0027]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of tris(2,4-di-*tert*-butylphenyl)phosphite as an antioxidant and/or stabilizer for olefin polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3619) has been filed by the Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 178.2010 (21 CFR 178.2010) be amended to provide for the safe use of tris(2,4-di-*tert*-butylphenyl)phosphite as an antioxidant and/or stabilizer for olefin polymers complying with § 177.1520(c) (21 CFR 177.1520(c)), without use of temperature limitations, intended for food-contact applications.

The agency has carefully considered the potential environmental effects of this proposed 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 that finding may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 3, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-6714 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0038]

Mobil Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Mobil Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of poly(*p*-methylstyrene) and rubber-modified poly(*p*-methylstyrene) in food-contact applications.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3617) has been filed by Mobil Chemical Co., Edison, NJ 08817, proposing that the food additive regulations be amended to provide for the safe use of poly(*p*-methylstyrene) and rubber-modified poly(*p*-methylstyrene) in food-contact applications.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that 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: March 3, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-6713 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81F-0405]

Ralston Purina Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Ralston Purina Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of phthalate modified hydrolyzed soy isolate as a component of coatings for paper and paperboard that will contact food.

FOR FURTHER INFORMATION CONTACT: James B. Lamb, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

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 OB3531) has been filed by the Ralston Purina Co., Checkerboard Sq., St. Louis, MO 63188, proposing that the food additive regulations be amended to provide for the safe use of phthalate modified hydrolyzed soy isolate as a binder-adhesive component of coating for paper and paperboard used in the packaging of food.

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: March 3, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-6715 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N-0397]

Revisions of Certain Food Chemicals Codex, 3d Edition, Monographs; Opportunity for Public Comment

Correction

In FR Doc. 82-2861 appearing on page 5467 in the issue of Friday, February 5, 1982, make the following correction.

On page 5467, second column, under "For Further Information Contact:", the phone number in the last line for John W. Gordon should read "(202) 426-9463".

BILLING CODE 1505-01-M

National Institutes of Health

National Arthritis Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Arthritis Advisory Board on March 30, 1982, 9:00 a.m. to 5:00 p.m., in the Sea Pines Room, Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland, 20814. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat arthritis. Attendance by the public will be limited to space available.

Certain Subcommittees of the Board will meet the day before March 29. Further information, times and meeting locations of the Subcommittee may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20205, (301) 496-1991. The agenda and rosters of the members can also be obtained from his office. Summaries of the meeting may be obtained by contacting Carole A. Peters, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496-5765.

Dated: March 3, 1982.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 82-6698 Filed 3-11-82; 8:45 am]

BILLING CODE 4140-01-M

National Digestive Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on April 15-16, 1982, 11 a.m. to 5 p.m. on April 15 from 8:30 a.m. to 1 p.m. on April 16, in Conference Room, Building 31, C Wing, 6th Floor, Bethesda, Maryland. The Meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the current digestive diseases plan. Attendance by the public will be limited to space available.

Dr. Ralph Bain, Executive Director, National Digestive Advisory Board, P.O. Box 30377, Bethesda, Maryland 20084, (301) 496-2232, will provide an agenda and roster of members. Summaries of the meeting may be obtained by contacting Carole A. Peters, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496-5765.

Dated: March 3, 1982.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 82-6697 Filed 3-11-82; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Availability of Funding for Entrant Services Grants in High-Impact Areas

AGENCY: Office of Refugee Resettlement (ORR), SSA, HHS.

ACTION: Notice of availability of funding for entrant services grants in high-impact areas.

SUMMARY: This notice announces the availability of funds and award procedures for project grants for services to Cuban and Haitian entrants (hereafter, "entrants") under the Cuban/Haitian Entrant Program (CHEP) in States and localities where specific needs exist for supplementation of currently available resources because of factors such as a high concentration of entrants.

APPLICATION DEADLINE: Applications for grants under this notice must be received by ORR no later than April 26, 1982, or be mailed by first class mail and postmarked no later than that date. Applications not meeting this requirement will not be considered and will be returned to the sending agency.

FOR FURTHER INFORMATION CONTACT: Robert L. Robins, Office of Refugee Resettlement, Room 1229, Switzer Building, 330 C Street, SW., Washington, D.C. 20201, Telephone (202) 472-4440.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the availability of funds for special project grants for services to Cuban and Haitian entrants in areas where, because of factors such as an unusually high concentration of entrants, there exists and can be demonstrated a specific need for supplementation of currently available resources for services to these populations.

Notice of proposed availability of funding was published in the **Federal Register** for public comment on December 31, 1981 (46 FR 63393). That notice applied to both refugees and entrants, and stated that the Department expected no funds to be available for this prupose for refugee assistance in FY 1982 but that funds were expected to be available for entrant assistance. Because we expect no funds to be available for this purpose for refugees in FY 1982, this notice applies only to entrants. If funds for this purpose become available for refugees, we will publish a separate similar notice.

No significant changes have been made in this notice from the previously published proposal. We have made clarifications and minor changes in response to comments, and other technical changes.

The Department currently expects $35,000,000 in fiscal year 1982 to be available with respect to Cuban and Haitian entrants.

The purpose of the grants is to provide additional services to entrants in areas where resources for these purposes have been unusually strained due to factors such as especially large concentrations of entrants. Funding of these special projects is intended to promote effective resettlement and to provide needed services to entrants while at the same time helping to offset extraordinary impacts or burdens on State and local resources.

The amount of funding awarded to an applicant generally will be related to the extent of the specific needs to be addressed and the degree of concentration and number of entrants in the geographic area to be served by a proposed project, as documented in applications. Before examining all applications received, we cannot state the number of awards which will be made. All applications will be reviewed for demonstration of need and the strength of the proposal. We will attempt to target the limited funds to those areas which demonstrate greatest need if appropriate proposals to meet those needs are submitted for use of the funds in those areas.

II. Discussion of Comments Received

Twenty-six comments were received in response to the notice of proposed availability of funding. The comments overwhelmingly supported the concept of funding for service projects to refugees and entrants.

Other significant comments, together with the Department's responses, are summarized below.

Eligible Service/Use of Funds

Comment: Some commenters suggested that funds should be available for services to refugees as well as entrants. Others thought services rendered under these projects should not be limited to those now being provided to entrants.

Response: Funds for such projects currently are available only in the entrant program. HHS intends to fund such projects for refugees in the future, however, should funds become available. Funds from the entrant program may not be used for services and projects for refugees. Funds for these projects are not limited to services currently being provided. In fact, the projects are not intended to replace or duplicate cash and medical assistance or existing social services funds. Any service authorized by Section 412(c) of the INA may be provided, but we are particularly concerned about meeting emergency or extraordinary needs that cannot be or are not being met by other aspects of the entrant program.

Comment: Some commenters requested clarification regarding health services eligible for reimbursement under the targeted assistance program.

Response: In order to provide for flexibility to consider various factors in the States' medical assistance programs for entrants, any health service which a State feels appropriate and for which the State can show a specific need can be described in its application. Project funds can be used for a variety of health needs of entrants and which do not duplicate other reimbursable medical assistance.

Comment: One commenter recommended that the definition of "early self-support" include the vocational rehabilitation needs of refugees with disabilities.

Response: By placing a priority on activities promoting "early self-support", HHS does not intend to exclude vocational rehabilitation services. If a State can demonstrate a substantial need, such survices could be covered under the targeted assistance program.

Comment: Some commenters recommended that activities other than services to entrants should also be eligible for funding, such as costs relating to the arrest and prosecution of entrants for criminal conduct. These commenters requested that aid be provided for impacts on a community which do not relate to direct services to entrants.

Response: The statutory authority for the award of federal grant funds under this program is section 412(c) of the Immigration and Nationality Act, as amended by the Refugee Act of 1980, as expressly defined in section 412(c). The range of service and assistance activities which the Department considers permissible under this grant program is that defined by statute as the purposes and activities which projects funded by grants under section 412(c) may be designed to accomplish. The Department does not read the Refugee Act of 1980 to authorize the Director to award grant funds for purposes not related to assisting or serving refugees or entrants—such as for the arrest,

prosecution, or penal incarceration of refugees or entrants.

Comment: Provisions for retroactive reimbursement should be available in cases where emergency conditions have required immediate State or local expenditures for health care, food, and shelter services.

Response: The grant program announced in this notice is designed to provide funding for projects rendering services on an essentially prospective basis. However, expenditures which States or localities may have incurred in the past on an emergency basis may be explained in applications for grant funds, and will be taken into consideration in assessing the level of need for additional service and assistance funds demonstrated in State applications.

Eligibility Criteria

Comment: Several commenters recommended that a State should be eligible for assistance if only a portion of the State is highly impacted. Others thought that the ratio should be modified and that additional impact criteria should be considered and more clearly defined.

Response: This grant program will permit assistance to States that have high impact in only a portion of the State. The 1:200 ratio we have proposed may be considered merely a strong evidence of need and is only *one* of the factors we will review. The Department will consider various forms of impact and need and will permit States to explain the nature and degree of such impact. If, for instance, a State believes that it has an extraordinary percentage of entrants on aid compared to the area's total population on aid, it may include such information in its application. Thus States will have the opportunity to describe for HHS review all factors they believe relevant.

Comment: One commenter thought that by providing funds only to impacted areas we would be encouraging secondary migration to that area.

Response: This Department's experience in administering the refugee, entrant, and AFDC programs is that recipients do not change locations solely because of the availability of benefits and services. In addition, the targeted assistance funds are intended for use by areas already experiencing heavy impacts. We anticipate that the funds will be used to provide clearly needed services and will not be a magnet for further migration.

Application Procedure/Administration

Comment: Various commenters suggested that either counties, local governments within counties, or individual service providers should be permitted to apply directly for grants.

Response: The proposal is designed to enable the State, which has major programmatic responsibility and accountability under the State plans for entrant and refugee assistance, to plan the use of the funds and to have maximum flexibility to target funds as needed. Each State will decide which areas and services require funding, taking into account the assistance and services already being provided with other funds. As stated in the announcement, a State may subgrant or subcontract with other entities in the State if the State provides a detailed description and cost estimate of those activities which would be performed for the State under subcontract or subgrant. The subcontractors or subgrantees need not be listed.

Comment: Several commenters thought that the application procedure was too burdensome and that detailed proposals and budgets ought not to be provided with the application.

Response: The application procedure requires the basic information necessary to determine need, impact, and use of funds. We are not requiring changes in normal State procedures for subcontracts and subgrants of Federal funds. The application should describe the purposes, activities, and costs for which funds will be used, but need not go into extensive detail on all operational and budgetary aspects of proposed service projects.

Comment: Some respondents commented that the proposal gives the appearance of creating a new administrative mechanism to deliver services already being provided in CHEP. They believe this would be counterproductive to effective State management of entrant services.

Response: The Department does not intend to create a new mechanism for delivery of services. Our grant making process permits each State wide latitude in its proposal for use of these funds. They are intended to meet emergency and extraordinary needs of entrants which are not being or cannot be met by other ongoing programs.

Comment: Some commenters suggested that States should be given approval authority for all subcontracts with usual ORR prior approval of sole source contracts and prior review of requests for proposals used for State bidding purposes. The program announcement does not specify who would have approval authority.

Response: Normal ORR procedures for prior approvals and prior reviews will apply.

Comment: Some commenters criticized the proposed requirement that applications must describe how the activities proposed in the application would supplement and be coordinated with ongoing activities under the State's plan for entrant assistance and services. They perceived this requirement to limit allowable services to those now being provided in the entrant program.

Response: Targeted assistance project funds are intended for needs which are not now being met by social service funds or cash and medical assistance. The notice does not require services to be provided in the same manner as those now being provided. However, it does require States to explain how services provided under this program and services currently being provided will be coordinated in order to avoid duplication or fragmentation of services. In addition, States must show how the services provided by this program will supplement or meet objectives different from those now being achieved through current funding.

Comment: It was suggested that an amount of assistance be allocated to a State which it could distribute however it chooses without having to justify in advance specific expenditures or service.

Response: The Department does not believe that section 412(c) of the Immigration and Nationality Act, which provides the legal authority for the grant program, contemplates the award of refugee program funds on terms such as those suggested by this comment. The relevant language of the authorizing legislation specifies types of refugee needs which may be met and services which can be provided through projects funded under the grant program. Moreover, the Act specifically prohibits the award of grants such as the targeted assistance grants without the submission of an "appropriate proposal and application"; and suggests that specific description of the services to be performed is expected to be part of such proposal and application (see section 412(a)(4) of the INA as amended by the Refugee Act of 1980). Finally, in view of the limited resources available for this program, we believe that it is preferable from a policy perspective to require sufficient description of the proposed uses of grant funds to enable the Director to evaluate the relative levels of need for these funds in various geographic areas.

Miscellaneous

Comment: Many respondents commented that the $20,000,000

available is insufficient to meet entrant impact needs.

Response: HHS currently estimates that approximately $35,000,000 will be available for the entrant targeted assistance program in FY '82. Because the Refugee Act of 1980 expressely limits our authority to provide assistance to the extent of available appropriations, we cannot increase the amount available for targeted assistance.

Comment: Some commented that, due to the impact of the proposed change in refugee and entrant cash and medical assistance policy, the targeted assistance program should be implemented concurrently with that change.

Response: This announcement of availability of funds for entrant services grants is being published on the same day as the interim final regulations on cash and medical assistance policy for refugees and entrants, and we intend to make these programs effective at the same time. Awards in the targeted assistance program which are intended for purposes different than cash and medical assistance funds will be made as soon as possible after the deadline for the receipt of all applications.

III. Authorization

Entrant projects will be funded under the authority of section 412(c) of the Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980 (Pub. L. 96–212), 8 U.S.C. section 1522(c), as made applicable to the Cuban and Haitian entrant program by section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. section 1522 note.

IV. Eligible Grantees

The Department is limiting eligible grantees to those agencies of State governments designated as responsible for CHEP (under the new section 45 CFR 401.12 and 45 CFR 400.5 as applied to CHEP). State governments must participate in CHEP to be eligible.

States may subgrant or subcontract with other entities in the State. States must submit a detailed description and cost estimate of those activities, if any, which would be performed under subgrant or subcontract. States need not list the subgrantees or subcontractors.

In assessing the adequacy of a State agency's demonstration of need for supplementation of existing resources, the Director of ORR will take into consideration the ratio of entrants to the total population of the State. A ratio of 1:200 or greater will be considered strong evidence of need. Where a State agency can satisfactorily demonstrate a high level of concentration in one or more local areas within the State, even though the State's total entrant population ratio does not meet the above criterion, such concentration will also be considered strong evidence of need.

Applications submitted in response to this notice are not subject to review by State and areawide clearinghouses under the procedures in Part I of Office of Management and Budget Circular No. A–95.

V. Eligible Projects

An applying State agency is required to set forth in detail: (1) The proposed use(s) of a project grant; (2) the local area(s) where the activities would be carried out; (3) a detailed description and cost estimate of those activities, if any, which would be performed under subgrant or subcontract (the subgrantees or subcontractors need not be listed); and (4) the specific group(s) of entrants who would be served.

Explicit justification would be required in the application for each specific activity proposed for each specific local area to be served, together with detailed proposed budgets.

The applicant is required to justify in the application why additional Federal funds are needed beyond those currently available for entrant social services, and how the activities proposed in the application would supplement and be coordinated with ongoing activities under the State's plan for the entrant cash and medical assistance and social service programs.

Permissible activities would include the broad range allowed under section 412(c) of the INA, subject to the demonstration of need for a particular activity, as indicated above. Permissible activities could include adult English language training, employment services, emergency food and shelter, health services, certain types of educational services, relocation services to less impacted areas, and other types of services where specific needs for supplementation of State, local, or other resources for the provision of services to entrants could be documented.

The grant period will be 12 months, and grant funds must be obligated by the grantee within that period. Funds must be expended in accordance with the approved application.

VI. Criteria for Evaluating Applications

An applying State agency must demonstrate a specific need for the supplementation of currently available resources for the provision of needed services to entrants in one or more local areas within the State. A ratio of refugees or entrants to total population in a State or locality exceeding 1:200 will be considered strong evidence of such need.

The application must spell out clearly the relationship between the requested special project funds and the State's activities being carried out with other Federal entrant funds.

Highest priority would be given to those service projects which are intended to result in early self-support of entrants, to meet urgent needs of individuals and families within the entrant populations, and to avoid major impacts or burdens on State or local resources which may result in an incapacity of those States or localities to serve entrants effectively and to promote their effective resettlement or integration in communities.

Project grant applications will be evaluated on the following criteria:

1. Documentation of high concentration of entrants.
2. Demonstration of special need for supplementation of other available resources in order to serve this population.
3. Documentation of extraordinary impact on State or local resources meriting special project grant.
4. Adequacy of justification for each specific activity proposed for each specific local area.
5. Adequacy of description of how proposed activities would supplement and be coordinated with a State's plan for entrant cash and medical assistance and social service programs.
6. Extent to which activities would be targeted to specific areas of greatest entrant concentrations and needs.
7. Assurance that services will be provided by qualified agencies or individuals.
8. Reasonableness of estimated costs in relation to anticipated results.

VII. Application Procedure

Applications are to be submitted on Form SSA–96 to: Robert L. Robins, Office of Refugee Resettlement, Room 1229, Switzer Building, 330 C Street, SW., Washington, D.C. 20201, Telephone (202) 472–4440. Forms and further information may be obtained from the same office.

VIII. Selection Procedure

Applicants will be competitively evaluated according to the criteria by a review panel of experts in accordance with the HHS Grants Administration Manual (chapter 1–55).

The panel will make recommendations to the Director of

ORR. Selection of grantees will be at the discretion of the Director.

We estimate that approximately 30 days after the deadline for receipt of applications will be sufficient time to complete the selection procedure.

IX. HHS Regulations That Apply

The following HHS regulations apply to grants under this Notice:

42 CFR Part 441 Subparts E and F Services: Requirements and limits applicable to specific services—Abortions and Sterilizations.

45 CFR Part 16 Department grant appeals process.

45 CFR Part 74 Administration of grants.

45 CFR Part 75 Informal grant appeals procedures.

45 CFR Part 80 Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare effectuation of Title VI of the Civil Rights Act of 1964.

45 CFR Part 81 Practice and procedure for hearings under part 80 of this title.

45 CFR Part 84 Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.

X. Paperwork Reduction Act Information

This notice relates only to applications for project grants on behalf of Cuban and Haitian entrants. OMB review and approval of the application form is not required under the Paperwork Reduction Act of 1980. ORR will utilize Form SSA–96 which has current OMB approval (0960–0184) for applications for non-construction discretionary ORR grant programs.

(Catalog of Federal Domestic Assistance No. 13.817, Refugee Assistance Cuban and Haitian Entrants)

Dated: March 3, 1982.

John A. Svahn,

Commissioner of Social Security.

[FR Doc. 82-6807 Filed 3-11-82; 8:45 am]

BILLING CODE 4190-11-M

St. Lucia; Finding Regarding Foreign Social Insurance or Pension System—St. Lucia

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to aliens, subject to the exceptions described in section 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)), for any month after they have been outside the United States for 6 consecutive calendar months.

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) provides that section 202(t)(1) shall not apply to any individual who is a citizen of a foreign country which the Secretary of Health and Human Services finds has in effect a social insurance or pension system which is of general application in such country and under which (A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and (B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in the Commissioner of Social Security by the Secretary of Health and Human Services, and redelegated to him, the Director of the Office of International Policy has approved a finding that St. Lucia does not have a social insurance or pension system which pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death.

Accordingly, it is hereby determined and found that St. Lucia does not have in effect a social insurance or pension system which meets the requirements of section 202(t)(2)(A) of the Social Security Act (42 U.S.C. 402(t)(2)(A)).

Subparagraphs (A) and (B) of section 202(t)(4) of the Social Security Act (42 U.S.C. 402(t)(4) (A) and (B)) provide that section 202(t)(1) shall not be applicable to benefits payable on the earnings record of an individual who has 40 quarters of coverage under Social Security or who has resided in the United States for a period or periods aggregating 10 years or more. However, the provisions of subparagraphs (A) and (B) of section 202(t)(4) shall not apply to an individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies the provisions of subparagraph (A) of section 202(t)(2) but not the provisions of subparagraph (B) of section 202(t)(2).

By virtue of the finding herein, the limitation on payment of monthly benefits to aliens included in section 202(t)(1) does not apply to citizens of St. Lucia receiving benefits on the earnings records of individuals who have 40 quarters of coverage under Social Security or who have resided in the United States for a period or periods aggregating 10 years or more.

Dated: March 1, 1982.

Andrew J. Young,

Director, Office of International Policy.

[FR Doc. 82-6775 Filed 3-11-82; 8:45 am]

BILLING CODE 4190-11-M

St. Vincent and the Grenadines; Finding Regarding Foreign Social Insurance or Pension System—St. Vincent and the Grenadines

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to aliens, subject to the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)), for any month after they have been outside the United States for 6 consecutive calendar months.

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) provides that section 202(t)(1) shall not apply to any individual who is a citizen of a foreign country which the Secretary of Health and Human Services finds has in effect a social insurance or pension system which is of general application in such country and under which (A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, on death, and (B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in the Commissioner of Social Security by the Secretary of Health and Human Services, and redelegated to him, the Directory of the Office of International Policy had approved a finding that St. Vincent and the Grenadines does not have a social insurance or pension system which pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death.

Accordingly, it is hereby determined and found that St. Vincent and the Grenadines does not have in effect a social insurance or pension system which meets the requirements of section 202(t)(2)(A) of the Social Security Act (42 U.S.C. 402(t)(2)(A)).

Subparagraphs (A) and (B) of section 202(t)(4) of the Social Security Act (42 U.S.C 402(t)(4)(A) and (B)) provide that section 202(t)(1) shall not be applicable to benefits payable on the earnings record of an individual who has 40 quarters of coverage under Social Security or who has resided in the United States for a period or periods

aggregating 10 years or more. However, the provisions of subparagraphs (A) and (B) of section 202(t)(4) shall not apply to an individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies the provisions of subparagraph (A) of section 202(t)(2) but not the provisions of subparagraph (B) of section 202(t)(2).

By virtue of the finding herein, the limitation on payment of monthly benefits to aliens included in section 202(t)(1) does not apply to citizens of St. Vincent and the Grenadines receiving benefits on the earnings records of individuals who have 40 quarters of coverage under Social Security or who have resided in the United States for a period or periods aggregating 10 years or more.

Dated: March 1, 1982.

Andrew J. Young,

Director, Office of International Policy.

[FR Doc. 82-6774 Filed 3-11-82; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding for Federal Acknowledgment of the Death Valley Timbi-Sha Shoshone Band

March 2, 1982.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.9(f) notice is hereby given that the Assistant Secretary proposes to acknowledge the Death Valley Timbi-Sha Shoshoe Band, c/o Mrs. Madeline Esteves, Post Office Box 108, Death Valley, California 92328, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group satisfies the criteria set forth in 25 CFR 54.7 and, therefore meets the requirements necessary for a government-to-government relationship with the United States.

Under § 54.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision is available to the petitioner and interested parties upon written request.

Section 54.9(g) of the regulations provides that any individual or organization wishing to challenge the proposed findings may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted on or before July 12, 1982. Comments and requests for a copy of the report should be addressed to the Office of the Assistant Secretary—Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20245, Attention: Branch of Federal Acknowledgment.

After consideration of the written arguments and evidence rebutting the proposed findings and within 60 days after the expiration of the response period, the Assistant Secretary will publish his determination regarding the petitioner's status in the **Federal Register** as provided in § 54.9(h).

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-6776 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-02-M

Proposed Finding Against Federal Acknowledgment of the Munsee-Thames River Delaware Indian Nation

February 25, 1982.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.9(f) notice is hereby given that the Assistant Secretary proposes to decline to acknowledge the Munsee-Thames River Delaware Indian Nation, c/o Mr. William Lee Little Soldier, Post Office Box 587, Manitou Springs, Colorado 80911, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group does not meet four of the criteria set forth in 25 CFR 54.7 and, therefore, does not meet the requirements necessary for a government-to-government relationship with the United States.

Under § 54.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision is available to the petitioner and interested parties upon written request.

Section 54.9(g) of the regulations provides that any individual or organization wishing to challenge the proposed findings may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted on or before July 12, 1982. Comments and requests for a copy of the report should be addressed to the Office of the Assistant Secretary—Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20245, Attention: Branch of Federal Acknowledgment.

After consideration of the written arguments and evidence rebutting the proposed findings and within 60 days after the expiration of the response period, the Assistant Secretary will publish his determination regarding the petitioner's status in the **Federal Register** as provided in § 54.9(h).

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-6777 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Alabama; Meeting of Southern Appalachian Regional Coal Team

AGENCY: Bureau of Land Management, Eastern States Office, Interior.

ACTION: Meeting notice.

SUMMARY: Pursuant to the responsibilities set forth in 43 CFR 3400, the Regional Coal Team for the Southern Appalachian Federal Coal Production Region, Alabama Subregion, will meet on April 15, 1982, to select tracts which may be offered in a third coal lease sale.

Public attendance is welcome, and time will be provided at the meeting for public comment prior to finalization of Regional Coal Team recommendations.

DATE: The Southern Appalachian Regional Coal Team meeting will begin at 10:00 a.m. on Thursday, April 15, 1982.

ADDRESS: The meeting will be held in Ballroom 1A of the Stafford Inn, 2209 9th Street, Tuscaloosa, Alabama 35401.

FOR FURTHER INFORMATION CONTACT: Monte Jordan, Regional Coal Team Chairman, Bureau of Land Management (540), 18th and C Streets, N.W., Washington, D.C. 20240, (202) 343-4636.

Rolla E. Chandler,

Acting Eastern States Director.

[FR Doc. 82-6559 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

Baker and Vale Districts; Meeting

Notice is hereby given of a public meeting to be held at 7:30 P.M., March 30, 1982, 5-J School District Office Building, 2090 4th Street, Baker, Oregon 97814. Purpose of meeting will be to review for comment the study of combining the Baker and Vale Districts of the Bureau of Land Management which would replace the current Baker District Office with a Detached Resource Area Office of the Vale District.

Gordon R. Staker,

District Manager.

March 3, 1982.

[FR Doc. 82-6699 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Cadastral Survey; Redelegation of Authority

Pursuant to the authority contained in Part 1, Sec. 1.1(a)(1) of the Bureau Order No. 701, dated July 23, 1964, I hereby redelegate to the Chief, Division of Operations the following authorities:

1. The authority to approve the Special Instructions for Cadastral Surveys as contained in Part 1, Sec. 1.4(a)(1) of Bureau Order No. 701.

2. The authority to approve plats and field notes of Mineral Surveys and certification as to expenditures pursuant to 43 CFR 3861.2–3 as contained in Part 1, Sec. 1.4(a)(3) of Bureau Order No. 701.

This redelegation of authority will become effective March 12, 1982.

Dated: March 3, 1982.

Clair M. Whitlock,

State Director, BLM, Idaho.

[FR Doc. 82-6705 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-17974]

Idaho; Conveyance of Public Lands; Madison County

Notice is hereby given that pursuant to section 203 of the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), the following-described public land has been sold by direct non-competitive sale to Harold L. Rigby and Ray W. Rigby, Route 1, Rexburg, Idaho 83440.

Boise Meridian, Idaho

T. 6 N., R. 39 E.
Sec. 17, lots 11, 12, and 14 comprising 29.11 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to the Rigbys.

The fair market value of the public land was appraised at $1,800 and payment in this amount was received by the United States.

Dated: March 3, 1982.

Louis B. Bellesi,

Chief, Division of Technical Services.

[FR Doc. 82-6703 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

[M 39629]

Montana, Conveyance; Opening of Lands

March 3, 1982.

Notice is hereby given that pursuant to Sec. 206 of the Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716), a patent issued to Ross C. Childers and Kelly Childers for the following described lands:

Principal Meridian, Montana

T. 20 N., R. 33 E.,
Sec. 20, SE¼SE¼; and
Sec. 29, NE¼.
Containing 200 acres.

A warranty deed issued to the United States for the surface estate in the following land:

Principal Meridian, Montana

T. 20 N., R. 33 E.,
Sec. 21, S½S½.
Containing 160 acres.

The land conveyed to the United States by the Childers shall be open on March 15, 1982, to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operation, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-6704 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

Montana; Conveyance of Public Lands; Carter County

March 5, 1982.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), the following described lands have been sold by noncompetitive sale to Vernon W. Knipfer, Mill Iron, Montana:

Principal Meridian, Montana

T. 1 N., R. 61 E.,
Sec. 11, NW¼NW¼.
Containing 40 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance documents to Vernon W. Knipfer.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-6707 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

Rock Springs District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Rock Springs District Grazing Advisory Board.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Rock Springs District Grazing Advisory Board. Notice of this meeting is required under Pub. L. 92–463.

DATE: April 29, 1982, 9:30 a.m. until 4:00 p.m.

ADDRESS: Hilton Inn, Jim Bridger Room, 2518 Foothill Boulevard, Rock Springs, Wyoming.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901 (307–382–5350).

The agenda for the meeting will include:

1. Election of a Chairman and Vice Chairman.
2. Review of minutes from November 19, 1981 meeting.
3. Presentation and discussion of the Bureau's Unauthorized Use Regulations.
4. Discussion of the utilization and responsibility for Range Betterment (8100) funds.
5. Presentation of preliminary range improvement projects planned for Fiscal Year 1983.
6. Presentation of progress on the Kemmerer and Salt Wells Resource Areas Environmental Statement and Rangeland Management Policy Programs.
7. Update of the Red Desert Allotment Management Plans in the Sandy Environmental Statement area.
8. Review of the District's Budget and Program for Fiscal Year 1982.
9. Public comment period.
10. Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:00–3:30 p.m., or file written statements for the Board's consideration. Anyone wishing to make an oral statement should notify the District Manager Bureau of Land Management, Highway 191 North, P.O. Box 1869, Rock Springs, Wyoming 82901, by April 28, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Jerry K. Ostrom,

Assistant District Manager.

[FR Doc. 82-6706 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

[M 53205-B(SD)]

South Dakota; Proposed Classification of Public Lands for State Indemnity Selection

March 5, 1982.

1. The South Dakota State Commissioner of School and Public Lands has filed a petition for classification and an application to acquire the public lands including the mineral estate described in paragraph 5 below, under the provisions of sections 2275 and 2276 of the Revised Statutes, as amended, 43 U.S.C. 851, 852 (1976), in lieu of certain school lands granted to the State under the Act of February 26, 1889, 25 Stat. 676, that were encumbered by other rights or reservations before the State's title could attach. The application has been assigned serial No. M 53205-B(SD).

2. The Bureau of Land Management will examine these lands for evidence of prior valid rights or other statutory constraints that would bar transfer. Those lands found suitable for transfer are hereby proposed for classification as requested by the State Commissioner. Classification will be in accordance with section 7 of the Act of June 28, 1934, as amended (43 U.S.C. 315f), and under the provisions of Subpart 2400 of Title 43 of the Code of Federal Regulations.

3. Information concerning these lands and the proposed transfer to the State of South Dakota may be obtained from the District Manager, Miles City District Office, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301, (406-232-4331) or the South Dakota Resource Area Manager, Bureau of Land Management, 310 Roundup Street, Belle Fourche, South Dakota 57717, (605-892-2526).

4. On or before April 12, 1982, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107. A public hearing will be scheduled if sufficient public interest exists to warrant the time and expense of a hearing.

5. The lands included in this proposed classification are located in Custer, Harding, Jackson, Lawrence, Lyman, and Perkins Counties, South Dakota, and are described as follows: (Footnotes correspond to numbered authorized users or applicants listed in Paragraph 6).

Black Hills Meridan

T. 4 N., R. 3 E.,
Sec. 5, Tract 43. 1
T. 18 N., R. 7 E.,
Sec. 17, S½N½ and NW¼SW¼; 2,3
Sec. 19, NE¼NE¼; 2,3
Sec. 20, NW¼NW¼; 2,3
Sec. 22, SW¼NW¼. 2,3
T. 20 N., R. 7 E.,
Sec. 1, Lot 2. 4
T. 20 N., R. 10 E.,
Sec. 5, Lot 4; 5, 7
Sec. 35, NE¼NW¼. 6,7
T. 17 N., R. 11 E.,
Sec. 6, Lot 5. 8,9
T. 20 N., R. 11 E.,
Sec. 25, NW¼SE¼; 10,11
Sec. 34, SE¼SE¼. 10,12
T. 14 N., R. 12 E.,
Sec. 14, NE¼SE¼; 15,16
Sec. 19, SE¼NE¼ and NE¼SE¼; 13,15
Sec. 24, SW¼SE¼. 14,15
T. 15 N., R. 12 E.,
Sec. 25, W½SW¼; 17,18
Sec. 26, NW¼SE¼; 17,18
Sec. 35, E½SE¼. 17,19
T. 16 N., R. 12 E.,
Sec. 4, NW¼SE¼. 20,21
T. 16 N., R. 13 E.,
Sec. 35, SW¼SW¼. 22,23
T. 17 N., R. 13 E.,
Sec. 35, NW¼NW¼. 24,25
T. 16 N., R. 14 E.,
Sec 13, NE¼NE¼; 26,29,30
Sec. 34, NW¼NE¼; 27,30
Sec. 35, NE¼SE¼. 28,31
T. 16 N., R. 15 E.,
Sec. 3, SE¼SW¼. 32,33
T. 19 N., R. 17 E.,
Sec. 2, Lots 1 and 2; 34, 35
Sec. 10, NW¼SW¼ and SW¼SE¼. 34,35
T. 2 S., R. 7 E.,
Sec. 29, E½W½NE¼ and W½SE¼NW¼.
T. 3S., R. 7 E.,
Sec. 2, Lot 3.
T. 4 S., R. 7 E.,
Sec. 34, NE¼SE¼. 36
T. 4 S., R. 8 E.,
Sec. 26, SE¼NE¼. 37
T. 3 S., R. 22 E.,
Sec. 12, E½NE¼; 38,40
Sec. 17, SW¼NW¼; 39,40
Sec. 29, NW¼NW¼. 39,40
T. 2 S., R., 23 E.,
Sec. 33, S½SE¼. 41,42
T. 3 S., R. 23 E.,
Sec. 2, SE¼SW¼, 43,44
Sec.. 3, SE¼SE¼. 43,44
T. 2 S., R. 24 E.,
Sec. 25, S½SE¼. 45,46
Total—1,901.25 acres.

Fifth Principal Meridian

T. 103 N., R. 73 W.,
Sec. 5, Lot 1 and S½NE¼.
T. 104 N., R. 73 W.,
Sec. 32, SE¼SE¼.
T. 103 N., R. 75 W.,
Sec. 22, Lot 4.
Total—188.70 acres.
Total M 53205-B(SD)—2,089.95 acres.

6. The following is a listing of holders of applications, leases, permits, and/or rights-of-way on the public lands described above:

Oil and Gas Leases

3. Century Oil and Gas Corporation, Suite 1145, Energy Center One, 717 17th Street, Denver, CO 80202—M 23779(SD)
4. R. K. Cramer, Suite 1340, 410 17th Street, Denver, CO 80202—M42026(SD)
7. Northern Michigan Exploration Company, One Jackson Square, Jackson, Michigan 49204; Sohio Petroleum Company, 50 Penn Place, Suite 1100, Oklahoma City, OK 73118—M 26570(SD)
9. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26572(SD)
11. Texas Pacific Oil Co., Inc., 1700 One Main Place, Dallas, TX 75250 M 26280(SD)
12. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26594 (SD)
15. Evelyn Chambers, 7800 E. Union Avenue, Suite 1100, Denver, CO 80237 M 29368(SD)
18. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26573(SD)
19. Nola Grace Ptasynski, P.O. Box 43, Casper, WY 82601—M 42031(SD)
21. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26574(SD)
23. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26577(SD)
25. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26578(SD)
30. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26586(SD)
31. Beard Oil Co., 2000 Classen Blvd., 200 South, Oklahoma City, OK 73106 M 26812(SD)
33. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26581(SD)
36. Thomas M. Robinson, 1040 Denver Club Building, Denver, CO 80202—M 48568(SD)
40. Asamera Oil (U.S.) Inc., Box 118, Denver, CO 80201—M 29667(SD)
42. Raymond T. Duncan, Colorado Center, Penthouse One, 1777 S. Harrison Street, Denver, CO 80210—M 42349(SD)
44. Raymond T. Duncan—M 43249(SD)
46. Raymond T. Duncan—M 42350(SD)

Oil and Gas Lease Applications

35. Lorraine L. Tidwell, P.O. Box 1473, Anchorage, AK 99510—M 52573(SD)
37. Ray M. Dewey, 4034 Working Way, Los Angeles, CA 90027—M 51495(SD)

Grazing Lessees

2. South Dakota State University, Agricultural Research and Extension

Center, 801 San Francisco, Rapid City, SD 57701
5. George Abelseith, Ralph, SD 57650
6. Simpson Bros., Prairie City, SD 57649
8. Quaal Ranch, Inc., Prairie City, SD 57649
10. George Jesfjeld, Prairie City, SD 57649
13. Edgar Johnson, Sorum, SD 57654
14. Jerry Wells, Bison, SD 57620
17. Walter Hukill, Bison, SD 57620
20. Craig Solvie, Prairie City, SD 57649
22. Burdine & Sons, Inc., Bison, SD 57620
24. Wayne Besler, Bison, SD 57620
26. Raymond Saunders, Meadow, SD 57644
27. Cora Patterson, Bison, SD 57620
28. John Lewton, Meadow, SD 57644
32. Veal & Sons, Inc., Meadow, SD 57644
34. Hay Hill Grazing Association, c/o Norman Miles, Meadow, SD 57644
38. John W. Dunn, Box 1357, Woodward, OK 73801
39. Daniel Stout, Kadoka, SD 57543
41. Walter Dennis, Kadoka, SD 57543
43. Walter Dennis, Kadoka, SD 57543
45. Donald Perault, Belvidere, SD 57521

Temporary Use Permit

1. South Dakota Division of Forestry, Star Route, Box 604, Lead, SD 57754 MT-020-TUP-30 Parking Lot

Special Use Permit

16. Lester Blomberg, Faith, SD 57626

Range Improvement

29. Raymond Saunders; Fence, M3-15-2013; Raymond Saunders; Reservoir, M3-15-0457

7. Rights-of-way granted by the Bureau of Land Management on the above lands will transfer with the land or may be reserved to the United States. Where mineral rights will transfer to the State existing oil and gas leases will remain in effect under the terms and conditions of the leases. The State Commissioner has agreed to give BLM's grazing permittees a preference right for grazing privileges on lands transferred to the State. The State leases will contain the same terms and conditions included in the present leases to the fullest extent allowed by their laws. However, the State and the lessees may agree to enter into other tenure arrangements.

Ray Brubaker,
District Manager for the State Director.

[FR Doc. 82-6700 Filed 3-11-82; 8:45 am]
BILLING CODE 4310-84-M

[M 53205-A(SD)]

South Dakota; Proposed Classification of Public Lands for State Indemnity Selection

March 5, 1982.

1. The South Dakota State Commissioner of School and Public Lands has filed a petition for classification and an application to acquire the public lands described in paragraph 5 below, under the provisions of section, 2275 and 2276 of the Revised Statutes, as amended, 43 U.S.C. 851, 852 (1976), based on entitlement rights due to natural deficiencies and short surveys. The application has been assigned serial No. M 53205-A(SD).

2. The Bureau of Land Management will examine these lands for evidence of prior valid rights or other statutory constraints that would bar transfer. Those lands found suitable for transfer are hereby proposed for classification as requested by the State Commissioner. Classification will be in accordance with section 7 of the Act of June 28, 1934, as amended (43 U.S.C. 315f), and under the provisions of Subpart 2400 of Title 43 of the Code of Federal Regulations.

3. Information concerning these lands and the proposed transfer to the State of South Dakota may be obtained from the District Manager, Miles City District Office, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301, (406-232-4331) or the South Dakota Resource Area Manager, Bureau of Land Management, 310 Roundup Street, Belle Fourche, South Dakota 57717, (605-892-2526).

4. On or before April 12, 1982, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107. A public hearing will be scheduled if sufficient public interest exists to warrant the time and expense of a hearing.

5. The lands included in this proposed classification are located in Brule, Buffalo, Campbell, Charles Mix, Codington, Gregory, Hughes, Jones, Lincoln, Marshall, Potter, Roberts, and Sully Counties, South Dakota, and are described as follows: (Footnotes correspond to numbered authorized users or applicants listed in Paragraph 6).

Black Hills Meridian

T. 2 N., R. 29 E.,
Sec. 18, W½SE¼, 1,4.
Total—80 acres.

Fifth Principal Meridian

T. 122 N., R. 46 W.,
Sec. 31, Lot 5.
T. 100 N., R. 49 W.,
Sec. 26, Lots 2 and 3.
T. 125 N., R. 52 W.,
Sec. 21, SE¼SW¼.
T. 117 N., R. 54 W.,
Sec. 11, Lot 8.
T. 125 N., R. 56 W.,
Sec. 30, Lot 2.
T. 95 N., R. 65 W.,
Sec. 20, NE¼SW¼, 2,3,4.
T. 95 N., R. 66 W.,
Sec. 11, SE¼SE¼, 5,6.
T. 97 N., R. 66. W.,
Sec. 30, Lot 2.
T. 97 N., R. 67 W.,
Sec. 33, SE¼SE¼.
T. 96 N., R. 68 W.,
Sec. 7, SW¼SE¼.
T. 105 N., R. 68 W.,
Sec. 6, Lots 8 and 9;
Sec. 7, S½ of Lot 6.
T. 106 N., R. 68 W.,
Sec. 31, Lot 6.
T. 97 N., R. 69 W.,
Sec. 23, NW¼NE¼.
T. 100 N., R. 71 W.,
Sec. 26, NW¼NW¼.
T. 109 N., R. 75 W.,
Sec. 8, SE¼SE¼. 7,8
T. 110 N., R. 77 W.,
Sec. 11, Lot 7.
T. 120 N., R. 78 W.,
Sec. 2, SE¼SW¼. 9
T. 116 N., R. 79 W.,
Sec. 5, Lot 3. 10
T. 125 N., R. 79 W.,
Sec. 14, SW¼NE¼ and NE¼SE¼. 11,12
T. 128 N., R. 79 W.,
Sec. 24, W½NW¼. 13,14
T. 114 N., R. 81 W.,
Sec. 3, Lot 1;
Sec. 10, Lots 1 and 2;
Sec. 22, Lot 1.
Total—752.73 acres.
Total M 53205-A(SD)—832.73 acres.

6. The following is a listing of holders of applications, leases, permits, and/or rights-of-way on the public lands described above:

Oil and Gas Leases

1. Stephen Smith, P.O. Box 3720, Casper, WY 82602; Kenneth K. Farmer, P.O. Box 3402, Casper, WY 82602; Exxon Corporation, P.O. Box 2305, Houston, TX 77001; The Taurus Corporation, P.O. Box 1460, Casper, WY 82602—M 39596(SD)
9. Robert K. Wonneberger, 1614 Colonial Terrace, Arlington, VA 22209 M 51492(SD)
13. Universal Fuels Co., 518 17th Street, Suite 238, Denver, CO 80202 M 50564(SD)

Oil and Gas Leas Applications

10. Liberty Petroleum Corporation, 500 Fifth Avenue, Suite 1425, New York, NY 10110—M 52754(SD)

11. Nordic Petroleums, Inc., 9745 E. Hampden Avenue, Suite 410, Denver, CO 80231—M 52755(SD)

Rights-of-Way

2. U.S. Army, Corps of Engineers, 6014 U.S. Post Office and Courthouse, Omaha, NE 68102—M 44070(SD); Department of the Interior, Bureau of Reclamation, P.O. Box 280, Casper, WY 82602—BLM 026190

Grazing Lessees

3. Thomas Donlin, Route 1, Spearfish, SD 57783
5. Gus Adam Estate, Route 1, Bristow, SD 57219
7. C. L. Swanson, Pierre, SD 57501
12. N. E. Amundson, Mobridge, SD 57601
14. Everett Van Beck, Pollock, SD 57648

Range Improvements

4. Thomas Donlin; Fence, M3–15–2111
6. Gus Adam Estate; Fence, M3–15–2112
8. C. L. Swanson; Fence, M3–15–2113

7. Rights-of-way granted by the Bureau of Land Management on the above lands will transfer with the land or may be reserved to the United States. Oil and gas leases will remain in effect under existing terms and conditions. The State Commissioner has agreed to give BLM's grazing permittees a preference right for grazing privileges on lands transferred to the State. The State leases will contain the same terms and conditions included in the present leases to the fullest extent allowed by their laws. However, the State and the lessees may agree to enter into other tenure arrangements.

Ray Brubaker,

District Manager, for the State Director.

[FR Doc. 82-6701 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

[Ut-080-2-1L]

Agriculture Lease; Public Lands in Duchesne County, Utah

The following described lands have been determined to be suitable for agriculture lease under section 302 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1732:

T8S, R17E, SLM,
Sec. 19: W½ SE¼.

The purpose of the lease is to develop the public lands into agriculture producing lands. The lands presently adjoining the proposed lease lands are high quality alfalfa and small grain producers. The lease is consistent with the Bureau's Planning System and county zoning.

The terms and conditions applicable to the lease are:

1. The lands would be leased to Evan Probst and John Price.
2. The lease would be issued for five years with the right to renew.
3. The lands would be used for production of alfalfa hay and other small grains.
4. Rental will be determined by fair market value.

Detailed information concerning the lease, including the environmental assessment, is available for review at the Vernal District Office, 170 South 500 East, Vernal, Utah 84078.

On or before April 12, 1982, interested parties may submit comments to the Vernal District Manager, 170 South 500 East, Vernal, Utah 84078. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department.

Ronald S. Trogstad,

Acting District Manager.

March 4, 1982.

[FR Doc. 82-6702 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

Colorado; LaSal Pipeline Co.; Application for Right-of-Way

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) LaSal Pipeline Co. filed an application for a right-of-way to construct a 16 inch shale oil pipeline (the project includes a 12 inch lateral pipeline from the main truckline to Rangely, Colorado) across the following described public lands:

Sixth Principal Meridian, Colorado (C–30969)

Garfield County

T. 5S., R. 96W.,
Sec. 2, 3, 11.
T. 4S., R. 96W.,
Sec. 3, 10, 11, 15, 22, 27, 34.

Rio Blanco County

T. 3S., R. 96W.,
Sec. 4, 5, 9, 15, 16, 22, 27, 34.
T. 2S., R. 96W.,
Sec. 5, 8, 9, 16, 17, 20, 21, 28, 29, 32.
T. 1S., R. 96W.,
Sec. 18, 19, 29, 30, 32.
T. 1S., R. 97W.,
Sec. 1, 2, 12, 13.
T. 1N., R. 97W.,
Sec. 3, 4, 9, 10, 15, 22, 26, 27, 35.
T. 2N., R. 97W.,
Sec. 2, 11, 13, 14, 23, 24, 26, 34, 35.
T. 3N., R. 97W.,
Sec. 23, 26, 35.

Moffat County

T. 3N., R. 97W.,
Sec. 2, 11, 14.
T. 4N., R. 97W.,
Sec. 12, 13, 23, 24, 25, 26, 35.
T. 5N., R. 96W.,
Sec. 3, 4, 9, 16, 20, 21, 29, 30, 31.
T. 6N., R. 95W.,
Sec. 4, 8, 9, 17, 18, 19.
T. 6N., R. 96W.,
Sec. 24, 25, 26, 34, 35.
T. 7N., R. 95W.,
Sec. 2, 10, 11, 15, 22, 27, 28, 33.
T. 8N., R. 95W.,
Sec. 12, 13, 24, 25, 26, 35.
T. 8N., R. 94W.,
Sec. 6, 7.
T. 9N., R. 94W.,
Sec. 2, 3, 9, 10, 16, 20, 21, 29, 30, 31.
T. 10N., R. 94W.,
Sec. 25, 35, 36.
T. 10N., R. 93W.,
Sec. 17, 19, 20, 30.
T. 10N., R. 93W.,
Sec. 3, 4, 9, 16.
T. 11N., R. 92W.,
Sec. 5, 7, 8, 18.
T. 11N., R. 93W.,
Sec. 1, 12, 13, 24, 25, 26, 34, 35.
T. 12N., R. 92W.,
Sec. 16, 21, 28, 32, 33.

Rangely Lateral

Rio Blanco County

T. 2S., R. 96W.,
Sec. 6, 7, 8.
T. 2S., R. 97W.,
Sec. 1, 2.
T. 1S., R. 97W.,
Sec. 28, 29, 31, 32, 33, 34, 35.
T. 1S., R. 98W.,
Sec. 6, 7, 17, 18, 20, 28, 29, 33, 34, 35, 36.
T. 1S., R. 99W.,
Sec. 1.
T. 1N., R. 99W.,
Sec. 19, 20, 27, 28, 29, 34, 35, 36.
T. 1N., R. 100W.,
Sec. 17, 18, 19, 21, 22, 23, 24.
T. 1N., R. 101W.,
Sec. 5, 7, 8, 9, 10, 13, 14, 15.
T. 1N., R. 102W.,
Sec. 3, 4, 10, 11, 12.

Sixth Principal Meridian, Wyoming (W–77812)

Carbon County

T. 12N., R. 92W.,
Sec. 2, 11, 14, 23.
T. 13N., R. 91W.,
Sec. 4, 5, 9, 15, 21, 22, 28, 32.
T. 14N., R. 91W.,
Sec. 7, 18, 19, 29, 30, 32.
T. 14N., R. 92W.,
Sec. 1, 12.
T. 15N., R. 92W.,
Sec. 3, 4, 10, 14, 15, 23, 25, 26.
T. 16N., R. 92W.,
Sec. 5, 17, 20, 21, 28, 33.
T. 17N., R. 92W.,
Sec. 4, 16, 22, 28.
T. 18N., R. 91W.,
Sec. 6.
T. 18N., R. 92W.,
Sec. 2, 10, 22, 28.
T. 19N., R. 91W.,
Sec. 10, 16, 28, 32.
T. 22N., R. 89W.,
Sec. 6, 18.

T. 23N., R. 89W.,
Sec. 8, 20, 32.
T. 24N., R. 88W.,
Sec. 4, 8, 18.
T. 24N., R. 89W.,
Sec. 24, 26, 34.
T. 25N., R. 87W.,
Sec. 1, 2, 9, 10, 11, 17, 19.
T. 25N., R. 88W.,
Sec. 25, 34, 35.
T. 26N., R. 86W.,
Sec. 17, 19, 20.
T. 27N., R. 86W.,
Sec. 2, 3, 10, 15, 22, 27.
T. 28N., R. 85W,
Sec. 6, 7, 18, 19.
T. 28N., R. 86W.,
Sec. 24, 25, 26, 35.

Sweetwater County

T. 20N., R. 90W.,
Sec. 6, 18.
T. 20N., R. 91W.,
Sec. 24, 26, 34.
T. 21N., R. 90W.,
Sec. 2, 14, 22, 34.
T. 22N., R. 90W.,
Sec. 24.

Natrona County

T. 29N., R. 85W.,
Sec. 5, 29.
T. 30N., R. 85W.,
Sec. 29, 32.
T. 31N., R. 83W.,
Sec. 1, 2, 3, 9, 10, 17, 18, 19.
T. 31N., R. 84W.,
Sec. 21, 22, 28, 29.
T. 32N., R. 82W,,
Sec. 2, 10,11.
T. 33N., R. 81W,.
Sec. 9.

The pipeline will transport upgraded shale oil from the Piceance Basin to existing crude oil transportation facilities at Rangely, Colorado, and Casper, Wyoming.

The purpose of this notice is inform the public that the Bureau of Land Management will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested person desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager concerned at the following locations.

Colorado (C–30969):
Bureau of Land Management, Craig District Office, P.O. Box 248, 455 Emerson Street, Craig, CO 81626

Wyoming (W–77812):
Bureau of Land Management, P.O. Box 670, Rawlins, WY 83301

Dated: March 4, 1982.

Francis E. Noll,

Acting District Manager.

[FR Doc. 82–6779 Filed 3–11–82; 8:45 am]

BILLING CODE 4310–84–M

Colorado Off-Road Vehicle Designations; Emergency Designation Order CO–030–8201

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of emergency off-road vehicle designations.

SUMMARY: Notice is hereby given, relating to the use of motorized vehicles on public lands in the Gunnison Forks Habitat Management Area; T. 15 S., R. 93 W., Sec. 6, 6th P.M., that portion of Lot 4 lying northwesterly of the North Fork of the Gunnison River and northeasterly of the Gunnison River. Motorized vehicle use in the described area is limited to designated routes. This notice is in accordance with the authority and regulations contained in 43 CFR 8341.2.

To control damage resulting from unconfined off-road vehicle activity, control measures are being implemented on lands acquired for wildlife mitigation at Gunnison Forks, as outlined in the Gunnison Forks Wildlife Habitat Management Plan. The management plan was written in consultation with the Colorado Division of Wildlife, U.S. Bureau of Reclamation, and U.S. Fish and Wildlife Service. This decision is published as final today. Under 43 CFR 4.21, an appeal may be filed on or before April 12, 1982 with the Interior Board of Land Appeals.

Designation: Approximately 1,610 feet of roadway will remain open to vehicle use. The designation will result in a reduction of about 1,920 feet of roadway in the subject area. This will reduce damage to wildlife habitat, watershed values and visual quality.

For further information about this designation, contact either of the following Bureau of Land Management offices:

Montrose District Manager, 2465 South Townsend, P.O. Box 1269, Montrose, Colorado 81402

Uncompahgre Basin Resource Area Manager, 336 South 10th Street, P.O. Box 1269, Montrose, Colorado 81402

Dated: March 4, 1982.

Marlyn V. Jones,

District Manager.

[FR Doc. 82–6778 Filed 3–11–82; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Anadarko Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on leases OCS–G 2750 and 2754, Blocks A–365 and A–376, High Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147 Matairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 3, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–6690 Filed 3–11–82; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continent, Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that McMoRan Offshore Exploration Co. has submitted a development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 2112 and 2912, Blocks 315 and 329, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978,

that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, exectives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 3, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-6671 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Badlands National Park; Availability for the Master Plan and Development Concept Plan; Final Environmental Statement

AGENCY: National Park Service, Interior.

ACTION: Notice of availability for the master plan and development concept plan, final environmental statement.

SUMMARY: The approved Final Environmental Statement for the Master Plan and Development Concept Plan for Badlands National Park is available for public distribution. The final environmental statement will serve as the general management plan for the park; therefore, as per the date of this **Federal Register** publication, the master plan is approved.

The master plan and development concepts provide the basis for long range management and development of the park. The plan identifies those developments and service necessary to facilitate all phases of recreation and administrative related activities. The document also contains a description of the physical and socioeconomic environment of the area, the physical and cultural resources therein, and the present and proposed management of such elements.

A copy of the final environmental statement may be obtained from the Superintendent, Badlands National Park, Post Office Box 72, Interior, South Dakota, 57750 or Regional Director, Rocky Mountain Region, National Park Service, 655 Parfet Street, Post Office Box 25287, Denver, Colorado, 80225. Copies of the document are also available for review at the locations noted above.

Dated: February 23, 1982.

James B. Thompson,

Regional Director, Rocky Mountain Region.

[FR Doc. 82-6765 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-70-M

Cuyahoga Valley National Recreation Area Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held beginning 7:30 p.m. (EST), on Thursday, March 25, 1982, at the Happy Days Visitor Center located on West Streetsboro Road (State Route 303) 1 mile west of State Route 8 or 2 miles east of Peninsula, in Boston Township.

The Commission was established by the Act of December 27, 1974, 88 Stat. 1788, 16 U.S.C. 460ff-4, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Cuyahoga Valley National Recreation Area.

The members of the Commission are are as follows:

Mrs. Tommie Patty (Chairperson)
Mr. John Craig
Mr. Norman A. Godwin
Mr. William Hutchison
Mr. James S. Jackson
Mrs. George Klein
Mr. Stanley Mottershead
Mr. C. W. Eliot Paine
Mr. Melvin J. Rebholz
Mr. F. Eugene Smith
Ms. Robbie Stillman
Mr. Barry K. Sugden
Dr. Robert W. Teater

Matters to be discussed at this meeting include:

1. A proposal to ban open containers of alcoholic beverages.
2. The first phase construction contract for the Oak Hill Day Use area.
3. Update on transportation planning process.
4. Update on park operations.

The meeting will be open to the public. It is expected that about 100 persons, in addition to members of the Commission, will be able to attend this meeting. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Lewis S. Albert, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone (216) 650–4414. Minutes of the meeting will be available for public inspection 3 weeks after the meeting, at the office of Cuyahoga Valley National Recreation Area, located at 501 West Streetsboro Road (State Route 303), 2 miles east of Peninsula, Ohio.

Dated: March 1, 1982.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 82-6766 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-70-M

Gateway National Recreation Area; Gateway Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Gateway National Recreation Advisory Commission will be held commencing at 3:00 p.m., Tuesday, April 6, 1982, at Federal Hall, 26 Wall Street, Lower Level, New York, New York.

The Commission was established by Pub. L. 92–952 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Gateway National Recreation Area.

The matters to be discussed at this meeting include:

1. Spring/Summer Programs.
2. Sandy Hook Rehabilitation Status.
3. Report: Gateway Tour by Senior Staff Member, House Interior and Insular Affairs Sub-Committee.
4. Recruitment Drive for Minority and Women Surf-lifeguards.
5. Report: Floyd Bennett Field Development Public Input.
6. Transportation: B–9, B–46 Status and Promotion. Discussion of Bridge Toll Increase.
7. Job Corps Presentation.
8. Superintendent's Report.
9. Regional Director's Report.
10. Set Date and Place for Next Meeting.

The meeting will be open to the public. The facility at which the meeting will be held is considered physically accessible. If interpretive services are

requested by deaf or hearing impaired individuals to this agency within five working days before the meeting, it will be provided. However, facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements, may contact John Guthrie, Acting Superintendent, Gateway National Recreation Area, Headquarters, Building No. 69, Floyd Bennett Field, Brooklyn, New York 11234, (212) 630–0363.

Minutes of the meeting will be available for inspection four weeks after the meeting at the Gateway National Recreation Area Headquarters Building in Brooklyn.

Dated: March 1, 1982.

John Guthrie,

Acting Superintendent, Gateway National Recreation Area.

[FR Doc. 82–6767 Filed 3–11–82; 8:45 am]

BILLING CODE 4310–20–M

Bureau of Reclamation

Downstream Riverbank Stabilization Program, Grand Coulee Dam; Columbia Basin Project, Washington; Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on the proposed Riverbank Stabilization Program on the Columbia River below Grand Coulee Dam in Washington. The proposed program would include those actions necessary to prevent the riverbanks from sliding as a result of the operation of the Third Powerplant at Grand Coulee Dam.

Copies are available for inspection at the following locations:

Department of the Interior, Office of Environmental Affairs, Bureau of Reclamation, Room 7622, Washington, DC 20240, Telephone (202) 343–4991

Division of Management Support, Library Branch, Room 450, Building 67, Denver Federal Center, Denver, CO 80225, Telephone (303) 234–3019

Office of the Regional Director, Bureau of Reclamation, Box 043, 550 West Fort Street, Boise, ID 83724, Telephone (208) 334–1208

Grand Coulee Project Office, Bureau of Reclamation, P.O. Box 620, Grand Coulee, WA 99133, Telephone (509) 633–1360

Single copies of the final environmental statement may be obtained on request to the Commissioner, Bureau of Reclamation, or the Regional Director. Copies will also be available for inspection in libraries in the project vicinity. Please refer to the statement number above.

Dated: March 8, 1982.

R. N. Broadbent,

Commissioner of Reclamation.

[FR Doc. 82–6693 Filed 3–11–82; 8:45 am]

BILLING CODE 4310–09–M

INTERNATIONAL COMMUNICATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that five paintings imported from the Soviet Union to be included in the exhibit, "Jacob van Ruisdael" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. I also determine that the temporary exhibition or display of the listed exhibit objects at the Fogg Art Museum, Cambridge, Massachusetts, beginning on or about March 13, 1982, to on or about April 11, 1982, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: March 11, 1982.

Gilbert A. Robinson,

Acting Director.

[FR Doc. 82–6993 Filed 3–11–82; 10:13 am]

BILLING CODE 8230–01–M

INTERSTATE COMMERCE COMMISSION

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 by 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: The American Original Corporation, P.O. Box 769, 215 High Street, Seaford, DE 19973.

2. Wholly-owned subsidiary which will participate in the operations and address: National Seafood Distributors, Inc., a Delaware corporation, P.O. Box 769, 215 High Street, Seaford, DE 19973.

1. Parent corporation and address of principal office: Bigelow-Sanford, Inc., P.O. Box 3089, Greenville, SC 29602.

2. Wholly-owned subsidiary which will participate in the operations, and address of the respective principal office: Bigelow Transportation Company, Inc., P.O. Box 3089, Greenville, SC 29602.

1. Parent corporation and address of principal office: Campbell Soup Company, Campbell Place, Camden, New Jersey 08101.

2. Wholly-owned subsidiaries which will participate in the operations and States of incorporation:

Corporate Name and State of Incorporation

Campbell Finance Corp., Delaware.
Campbell Foods Distributing Corp., New Jersey
Campbell Foreign Sales Corp., Delaware.
Campbell Sales Company, New Jersey.
Campbell Soup Company (Sumter Plant) Inc., South Carolina.
Campbell Soup (Texas) Inc., Texas.
Campbell's Soups Inter-America, Inc., New Jersey.
Camsco Mushroom Company, Inc., Ohio.
Capistrana Finance Corp. Delaware.
Capistrana Products Corp., New Jersey.
Champion Valley Farms, Inc., New Jersey.
Clark's Restaurant Enterprises, Inc., Washington.
Dixon Canning Corp., California.
Domsea Farms, Inc., Washington.
Fine Oven Products Inc., New York.
German Village Products, Inc., Ohio.
Godiva Chocolatier, Inc., New Jersey.
Hanover Trail of Maryland, Inc., Maryland.
Hanover Trail, Inc., Pennsylvania.
Herider Farms, Inc., Texas.
Joseph Campbell Company, New Jersey.
Lexington Gardens, Inc., Connecticut.
MB Bakery, Inc., California.
Martino's Bakery, Inc., California.
Pepperidge Farm, Incorporated, Connecticut.
Pepperidge Farm Mail Order Company, Inc., Connecticut.
Pietro's Corp., Washington.
Seattle Restaurant Food Supply, Inc., Washington.

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Snow King Frozen Foods, Inc., Pennsylvania.
Southeastern Wisconsin Products Company, Inc., Wisconsin.
Technological Resources, Inc., New Jersey.
Valley Tomato Products, Inc., California.
Vlasic Foods, Inc., Michigan.
(1) Parent corporation and address of principal office: General Foods Corporation (a Delaware corporation), 250 North Street, White Plains, New York 10625.
(2) Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:
(a) Birds Eye, Inc. (Delaware).
(b) Brisk Transportation Inc. (Delaware).
(c) Don's Prize, Inc. (Ohio).
(d) General Foods Caribbean Manufacturing Corporation (Delaware).
(e) General Foods, Domestic International Sales Company, Inc. (Delaware).
(f) General Foods Inc. (Puerto Rico).
(g) General Foods Manufacturing Corporation (Delaware).
(h) General Pectin Manufacturing Corporation (Delaware).
(i) General Foods Overseas Development Corporation (Delaware).
(j) General Foods Trade Funding Corporation (Delaware).
(k) General Foods Trading Company (Delaware).
(l) Hudson Commercial Corporation (Delaware).
(m) Italsalumi, Inc. (Illinois).
(n) Kohrs Packing Company (Illinois).
(o) Oscar Mayer & Co. Inc. (Delaware).
(p) Oscar Mayer Export, Ltd. (Wisconsin).
(q) Oscar Mayer Foods Corporation (Delaware).
(r) Maxwell House, Inc. (Delaware).
(s) Meriwether's Restaurants, Inc. (Delaware).
(t) Quality Industrial Plastics, Co., Inc. (Delaware).
(u) Scientific Protein Laboratories, Inc. (Illinois).
(v) Birds Eye de Mexico, S.A. de C.V. (Mexico).
(w) Canterbury Foods (Alberta) Ltd. (Alberta, Canada).
(x) Franklin Baker Company of the Philippines (Philippines)
(y) General Foods, Inc. (Canada).
(z) Hostess Food Products Limited (Ontario, Canada).
(aa) ICL Food Services, Ltd. (Brit. Col., Canada).
(bb) White Spot Limited (Ontario, Canada).
1. Parent corporation and address of principal office: Northwest Transfer and Warehouse, Inc., 301 North 7th Street, Minneapolis, Minnesota 55403.
2. Wholly-owned subsidiaries which will participate in the operations, and state of incorporation: RAP Lines, Inc., a Minnesota corporation.
1. *Parent Corporation* and address of principal office: Rapid-American Corporation, 888 Seventh Avenue, New York, New York 10106.
2. *Wholly-Owned Subsidiaries:*
(a) McCrory Corporation, 888 Seventh Avenue, New York, New York 10106.
(b) J. J. Newberry Co., 888 Seventh Avenue, New York, New York 10106.
(c) Otasco, Inc., 11333 East Pine, Tulsa, Oklahoma 74116.
(d) Lerner Stores Corporation, 460 West 33rd Street, New York, New York 10001.
(e) Schenley Distillers, Inc., 36 East Fourth Street, Cincinnati, Ohio 45202.
(f) Schenley Affiliated Brands Corp., 888 Seventh Avenue, New York, New York 10106.
(g) Tennessee Dickel Distilling Co., Tullahoma, Tennessee 37388.
(h) Anvil Brand, Incorporated, 888 Seventh Avenue, New York, New York 10106.
(i) The Botany Shirt Company, Inc., 1290 Avenue of the Americas, New York, New York 10104.
(j) McGregor-Doniger, Inc., 888 Seventh Avenue, New York, New York 10106.

Divisions

Cross Country Clothes, Northampton, Pennsylvania.
Anvil Knitwear, Mullins, South Carolina, Kings Mt., North Carolina, McColl, South Carolina.
Botany '500', Philadelphia, Pennsylvania.
Beau Brummell, Cincinnati, Ohio.
The Bert Pulitzer Co., West Haven, Connecticut.
(k) Gilead Manufacturing Corporation, 200 Madison Avenue, New York, New York 10016.
(l) Wonderknit Corporation, 350 Fifth Avenue, New York, New York 10001.
(m) Rapid Distribution Service, Inc., 2392 N. DuPont Highway, Dover, Delaware 19901.
(n) Melville Knitwear Co., Inc., 8 Freer Street (P.O. Box 887), Lynbrook, New York 11563.
(o) Shenandoah Corporation, P.O. Box 551, Charles Town, West Virginia 25414.
(p) Charles Town Turf Club, Inc., P.O. Box 551, Charles Town, West Virginia 25414.
(q) Plastic Toy and Novelty Corp., 5801 Second Avenue, Brooklyn, New York 11220.
(r) American Recreation Group, Inc., 77 Modular Avenue, Commack, New York 11725.

Divisions

Cycle Products, 77 Modular Avenue, Commack, New York 11725.
Service Cycle, 77 Modular Avenue, Commack, New York 11725.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6742 Filed 3-11-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. MC-82]

Motor Carriers; Provisions for Forseeable Future Costs and Requirements for Additional Data

AGENCY: Interstate Commerce Commission.

ACTION: Notice to amend final procedures.

SUMMARY: The Commission amends the procedures adopted in its order served December 24, 1981, applicable to unscheduled non-labor expense increases to include fuel and fuel related expenses. The action is the result of the implementation of provisions contained in Ex Parte No. 311 (Sub-No. 4) served October 8, 1981.

EFFECTIVE DATE: April 14, 1982.

FOR FURTHER INFORMATION CONTACT: Paul R. Meder, (202) 275-7457.

SUPPLEMENTARY INFORMATION: By decision served December 24, 1981, 365 I.C.C. 410 (46 FR 62554, December 24, 1981), the Commission adopted procedures in accordance with the Motor Carrier Act of 1980, section 13(a), to permit motor carriers of property to recover reasonable foreseeable future costs in their general increase filings. It was determined at that time that fuel costs increases would be treated separately and excluded from the procedures adopted for unscheduled non-labor expense increases. This determination resulted from the action taken by the United States Court of Appeals for the Fifth Circuit in No. 81-4437 *Central Forwarding, Inc., et al.* v. *Interstate Commerce Commission* staying the Commission's October 8, 1981 order in Ex Parte No. 311 (Sub-No. 4), *Modification—Motor Carrier Fuel Surcharge Program*, 365 I.C.C. 311 (1981). The Commission's October 8, 1981 order provides for the fold-in of the fuel surcharge. As a result of the Court action it was decided that fuel increases would be excluded from consideration until the above matter was resolved.

On January 18, 1982, the Court lifted the stay pending review. By order served January 27, 1982, the mileage based fuel compensation plan was impemented. The Commission set a new

60-day period, beginning February 12, 1982 and ending April 13, 1982 to allow the carriers to fold-in the existing fuel surcharges.

As a result of the fuel surcharge fold-in, the procedures previously adopted in the order served December 24, 1981, applicable to unscheduled non-labor increases, require amendment. Effective April 14, 1982, procedures for unscheduled non-labor expense increases are amended to include fuel and fuel related expenses. The motor carrier non-labor index has the capacity for measuring fuel cost increases and may be used to monitor and update fuel and fuel related expenses.

This action is taken without further notice and comment because the decision adopted in December was procedural in nature and the Notice of Proposed Procedure in this matter gave adequate notice that fuel and fuel related expenses might be included in the procedures for unscheduled non-labor expenses in the event the surcharge program was discontinued.

The decision will not significantly affect the quality of the human environment or conservation of energy resources.

Decided: March 5, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6740 Filed 3-11-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 410]

Motor Carriers; Study of Loading and Unloading Practices in the Motor Carrier of Property Industry

AGENCY: Interstate Commerce Commission.

ACTION: Availability of study.

SUMMARY: Section 15 of the Motor Carrier Act of 1980 (94 Stat. 808) required the Commission to study and report to Congress on the loading and unloading practices in the motor carrier of property industry. The Commission has completed its study and transmitted it to Congress.

The Commission's study indicated that most loading and unloading takes place without any problems that would be of concern to the government. Some problem areas were identified, particularly the unloading of fresh produce. The report concluded that the anti-lumping provisions of the Motor Carrier Act were partially effective, but that the section had yet to be established as a fully effective enforcement remedy. The report recommends cooperative interagency enforcement in areas where problems are pronounced, and it also suggests the reconsideration of apparently inequitable taxing regulations affecting owner-operators.

Copies: The report was made available to appropriate members of Congress on March 12, 1982. Copies of this study are now available on request made to the Office of the Secretary. Requests for copies may be made by calling the Commission's toll-free number (800-424-5403) or by writing to the Office of the Secretary, Room 2227, Interstate Commerce Commission, 12th and Constitution Avenue, NW, Washington, DC 20423.

Decided: February 23, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Clapp and Sterrett. Commissioner Sterrett did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6741 Filed 3-11-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 96)]

Rail Carriers; Boston and Maine Exemption for Contract Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are field within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacey, Trustees (BM), filed a petition on February 26, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). Petitioners request that we permit contract tariff ICC-BM-C-0011 to become effective on one day's notice. The Tariff was filed to become effective on March 28, 1982. The tariff provides for an allowance to load BM cars with plastic products.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The shipper is now penalized for using BM equipment on shipments to the West Coast because of tariff rate restrictions on such cars. Granting the petition will eliminate the penalty by providing an allowance to equalize the charges accruing to the shipper and will put idle BM boxcars to productive use. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract tariff ICC-BM-C-0011 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register.**

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

(49 U.S.C. 10505)

Dated: March 8, 1982.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6744 Filed 3-11-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55; (Sub-No. 58)A]

Rail Carriers; Seaboard Coast Line Railroad Co.—Abandonment—Between Milepost AVC 838.5 and Milepost AVC 832.0 in Polk County, Fla.; Findings

The Commission has issued a certificate authorizing Seaboard Coast Line Railroad Company to abandon its 6.5-mile rail line between Waverly (milepost AVC 838.5) and Prine (Milepost AVC 832.0) in Polk County, FL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6747 Filed 3-11-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29853]

Rail Carriers; Seaboard Coast Line Railroad Co.; Exemption

March 8, 1982.

The Seaboard Coast Line Railroad Company (SCL) and its wholly-owned subsidiaries Tampa Southern Railroad Company (Tampa) and Atlantic Land and Improvement Company (AL&I), have notified the Commission that they will dissolve Tampa as a corporate entity. Upon dissolution, AL&I will purchase all Tampa's non-operating real property and SCL will acquire all remaining property and assume all liabilities and obligations.

The transaction is within a single corporate family and comes within the exemption provisions set forth at 49 CFR 1111.5(c)(3). It will not result in any adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to the exemption, any Tampa employee affected by the dissolution shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6745 Filed 3-11-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-12 (Sub-No. 69)]

Rail Carriers; Southern Pacific Transportation Co.—Abandonment—Between Searles and Lone Pine, Calif.; Findings

The Commission has found that the public convenience and necessity permit Southern Pacific Transportation Company to abandon its 89.34 mile line of railroad between Searles, CA (milepost 430.00) and Lone Pine, CA (milepost 519.34), in Kern and Inyo Counties, CA. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail services are contained in 49 U.S.C. 10950 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6746 Filed 3-11-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-52 (Sub 17F)]

Atchison, Topeka and the Santa Fe Railway Co.—Abandonment Between Shawnee and Ada, OK; Findings

The Commission has issued a certificate authorizing the Atchison, Topeka and the Santa Fe Railway Company to abandon its line of railroad known as the OCAA District of the Middle Division, extending from milepost 38 + 3665 feet at Shawnee to milepost 86 + 4032 feet at Ada, a total distance of 48.1 miles, in Pottawatomie, Seminole and Pontotoc Counties, subject to certain conditions. The abandonment certificate will become effective 30 days after publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Elaine Sehrt, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than March 22, 1982.

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.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Dated: March 9, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6916 Filed 3-11-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29809]

Atchison, Topeka and the Santa Fe Railway Co. and Burlington Northern Railroad Co.—Exemption of Sales and Acquisition of Trackage at Ada, Arkmore, and Blackwell, OK, and Arkansas City, KS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Commission exempts the proposed acquisition by the Burlington Northern Railroad Company of certain trackage belonging to the Atchison, Topeka and Santa Fe Railway Company at Ada, OK and the proposed acquisition by Santa Fe of certain BN trackage at Ardmore and Blackwell, OK and Arkansas City, KS from the prior approval requirements of 11343. The acquisitions are part of a coordination project between the two railroads under 49 U.S.C. 1654(d).

DATES: Exemptions effective April 12, 1982. Petitions to stay the Commission's decision must be filed no later than March 22, 1982 and petitions to reopen must be filed on or before April 1, 1982.

ADDRESS: Send pleadings to: Interstate Commerce Commission, Section of Finance, Room 5414, 12th and

Constitution Ave., NW., Washington, D.C. 20423.

Petitioner's representatives: Michael W. Blaszak for Santa Fe, 80 East Jackson Blvd., Chicago, IL 60604; or Douglas J. Babb for BN, 176 East Fifth St., St. Paul, MN 55101.

For copies of Docket No. AB–6 (Sub-No. 110F) contact: Office of the Secretary, Room 2227, Interstate Commerce Commission, Washington, DC 20423; or call toll-free: 800–424–5403.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: See Commission decision in Docket No. AB–6 (Sub-No. 110F), *Burlington Northern Railroad Company—Abandonment Between Steen, OK and Winfield, KS, ET AL.* served March 12, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–6915 Filed 3–11–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub 111F)]

Burlington Northern Railroad Co.—Abandonment Between Madill and Ardmore, OK; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its line between milepost 604.50 near Madill, OK and milepost 628.90 at the end of the line near Ardmore in Marshall and Carter Counties, OK, a total distance of 24.40 miles, subject to certain conditions. The abandonment certificate will become effective 30 days after publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Elaine Sehrt, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than March 22, 1982.

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.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Dated: March 9, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–6917 Filed 3–11–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub 110F)]

Burlington Northern Railroad Co.—Abandonment Between Steen, OK, and Winfield, KS; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its line between milepost 582.40 near Steen, OK and milepost 500.25 at the end of the line near Winfield, KS, a total distance of 82.15 miles, subject to certain conditions. The abandonment certificate will become effective 30 days after publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Elaine Sehrt, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than March 22, 1982.

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.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Dated: March 9, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–6914 Filed 3–11–82; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the annual list are effective on February 1, 1982.

SUMMARY: The purpose of this notice is to announce additions to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, Assistant Chief, Division of Labor Market Information, 601 D Street, NW., Attn: TPPL, Washington, D.C. 20213, Telephone: 202–376–7192.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Order 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on June 9, 1981 (46 FR 30594).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(c) and are added to the annual list of labor surplus areas.

effective February 1, 1982. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on March 4, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

ADDITIONS TO THE ANNUAL LIST OF LABOR SURPLUS AREAS, FEBRUARY 1, 1982

Labor surplus area	Civil jurisdiction included
Alabama:	
Coffee County	Coffee County.
Dale County	Dale County.
Florida:	
Putnam County	Putnam County.
New York:	
Wayne County	Wayne County.
Ohio:	
Springfield City	Springfield City in Clark County.
Balance of Clark County	Clark County less Springfield City.
South Carolina:	
Florence County	Florence County.

[FR Doc. 82-6547 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Periods in the States of Michigan, Minnesota, New Jersey, Utah, and Vermont

This notice announces the beginning of new Extended Benefit Periods in the States of Michigan, Minnesota, New Jersey, Utah, and Vermont, effective on February 28, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular employment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determinations of "on" Indicator

The heads of the employment security agencies of the States named above have determined that the rate of insured unemployment in each State, for the period consisting of the week ending on February 13, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rates, so that for that week there was an "on" indicator in each State.

Therefore, new Extended Benefit Periods commenced in these States with the week beginning on February 28, 1982.

Information for Claimants

The duration of extended benefits payable in a new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the States named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on March 8, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-6836 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-48; Exemption Application Nos. D-2477, 2478, and 2479]

Exemption From Prohibitions for Certain Transactions Involving the Bale Non-Salaried Employees Profit Sharing Plan, et al., Little Rock, Ark.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This exemption permits the Bale Non-Salaried Employees Profit Sharing Plan, the Bale Employees Retirement Plan and the Bale Finance Company, Inc., Retirement Plan (collectively, the Plans) to purchase customer notes from the Bale Finance Company (Bale Finance) which receives such notes in the ordinary course of its business affiliation with Bale Chevrolet Company (Bale Chevrolet). The notes are collateralized by security agreements on the property purchased by Bale Chevrolet customers.

EFFECTIVE DATE: January 1, 1975 until June 30, 1975 for those transactions covered by section III of the exemption, otherwise from the date the exemption grant is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 18, 1981, notice was published in the **Federal Register** (46 FR 61750) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the transactions described in the applications for exemptive relief. The

notice set forth a summary of facts and representations contained in the applications for exemption and referred interested persons to the applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notification to interested parties as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Section I. Definition of Customer Notes

For purposes of this exemption a customer note is a two-party instrument, executed along with a security agreement for tangible personal property, which is accepted in connection with and in the normal course of Bale Finance's primary business activity—the financing of that property purchased from Bale Chevrolet. A two-party instrument is a promissory instrument used in connection with the extension of credit in which one party (the maker) promises to pay a second party (the payee) a sum of money.

Section II. General Exemption

Effective March 12, 1982, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply until July 1, 1984, to the purchase and holding by the Plans of customer notes (as defined in Section I) acquired from Bale Finance and the repurchase of such notes by Bale Chevrolet and /or Bale Finance in accordance with paragraph E, below, provided that the following conditions are met:

A. Within seven months after the close of a plan year during which the Plans engage in a transaction in reliance on this exemption, the Trustees or other appropriate fiduciary of the Plans shall submit the following information to the U.S. Department of Labor, Pension and Welfare Benefit Programs, 200 Constitution Avenue, N.W., Washington, D.C. 20216 (Attention: Customer Notes):

1. Name and address of employer;

2. Employer's identification number;

3. Name and address of plan administrator;

4. Plan administrator's identification number; and

5. Plan name and number.

B. Upon request by the Department, the Trustee or other appropriate fiduciary of the Plans which engaged in a transaction in reliance on this exemption shall submit to the Department such additional information regarding transactions subject to this exemption as may be requested. All requests for additional information shall be in writing.

C. Any sale of customer notes to the Plan is on terms at least as favorable to the Plans as an arm's-length transaction with an unrelated third party would be.

D. The acquisition of a customer note from Bale Finance shall not cause any one of the Plans to hold: (i) More than 50 percent of the current value (as the term is defined in section 3(26) of the Act) of plan assets in customer notes of the employer, and (ii) more than 10 percent of plan assets (as defined above) in customer notes of any one customer.

E. Bale Chevrolet and Bale Finance guarantee in writing the immediate repayment of the outstanding balance and accrued interest due on any customer note in the event such note is more than 60 days in arrears, or the obligor on such note fails to comply with any terms or conditions thereof; or in the event the obligor shall become insolvent, commit an act of bankruptcy, make an assignment for the benefit of creditors or a liquidating agent, offer a composition or extension to creditors, make a bulk sale; or in the event any proceeding, suit or action at law, in equity or under any of the provisions of the Bankruptcy Act or of amendments thereto for reorganization, composition, extension, arrangements, receivership, liquidation, or dissolution shall be begun by or against the obligor; or in the event of the appointment under any jurisdiction at law or in equity of any receiver of any property or the obligor; or in the event the condition of affairs of the obligor shall so change as to, in the opinion of the Trustees or other appropriate fiduciaries, impair its security or increase its credit risk; or should the obligor fail to take proper care of the goods or abandon the same.

F. The Plans receive adequate security for the customer note. For purposes of this exemption, the term adequate security means that the customer note is secured by a perfected security interest in the property purchased by the obligor on such note so that if the security is foreclosed upon, or otherwise disposed of, in default of repayment of the loan, the value and liquidity of the security is such that it may reasonably be anticipated that loss of principal or interest will not result. In no event shall adequate security mean an interest in intangible personal property, such as, but not limited to, accounts, contract rights, documents, instruments, chattel paper, and general intangibles.

G. Insurance against loss or damage to the collateral from fire or other hazards will be procured and maintained by the obligor until the customer note is repaid or repurchased by Bale Chevrolet and/or Bale Finance, and the proceeds from such insurance will be assigned to whichever of the Plans holds the customer note involved.

H. Repayment must be provided for in the following manner:

1. Where the customer note is secured by heavy equipment, the term shall in no event exceed 60 months. For purposes of this exemption heavy equipment shall include trucks (cab and chassis only) over 10,000 pounds but shall not include such equipment which has been specifically designed, manufactured or modified to a user's specifications and which cannot reasonably be expected to be resold in the ordinary course of the equipment distribution business.

2. Where the customer note is secured by passenger automobiles and light-duty highway motor vehicles, the term of repayment shall in no event exceed 48 months. For purposes of this exemption, passenger automobiles and light-duty highway motor vehicles are defined as vehicles which have a gross weight of 10,000 pounds or less, are propelled by means of their own motor and are a type used for highway transportation.

I. The Plans relying upon this exemption shall maintain or cause to be maintained for a period of six years from the date of such transaction such records as are necessary to enable the Department to determine whether the conditions of this exemption have been met, except that:

1. A prohibited transaction will not be deemed to have occurred if due to circumstances beyond the control of the Trustees or other appropriate fiduciary of the Plans, such records are lost or destroyed prior to the end of such six-year periods; and

2. Bale Chevrolet and Bale Finance shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph J below; and

J. Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph I above are unconditionally available at their customary location for examination during normal business hours by:

1. The Internal Revenue Service;

2. The Department of Labor;

3. Participants and beneficiaries of the Plans;

4. Any employer of plan participants;

5. Any employee organization any of whose members are covered by the Plans; or

6. Any duly authorized employee or representative of a person described in subparagraph (1) through (5) of this paragraph.

Section III. Special Exemption

A. The restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the purchase and holding by the Plans of customer notes purchased on or before June 30, 1975, from Bale Finance provided that the following conditions are met:

1. The terms of the purchase of the customer notes by the Plans were at least as favorable to the Plans as an arm's-length transaction with an unrelated third party would have been;

2. The Plans received adequate security as defined in Section II F above; and

3. Such purchases were ordinarily and customarily made by the Plans prior to January 1, 1975.

B. The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and section 4975(c)(1) (A) through (E) of the Code shall not apply until 180 days after the grant of this exemption to the sale, exchange or other disposition of customer notes which are owned by the Plans on December 18, 1981 to a disqualified person or party in interest if:

1. Such sale is made in order to comply with the conditions of this exemption; and

2. The Plans receive not less than adequate consideration.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 5th day of March 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6831 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3074]

Proposed Exemption for Certain Transactions Involving the Goel Medical Corp., Defined Contribution Pension Plan, Merrillville, Ind.

ACTION: Office of Pension and Welfare Benefit Programs, Labor.

AGENCY: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of 20 limited partnership interests by the Goel Medical Corporation Defined Contribution Pension Plan (the Plan) to Arun Goel, M.D., (Dr. Goel), a disqualified person with respect to the Plan. Since Dr. Goel and his wife, Sarla Goel, M.D., are the only shareholders of the employer maintaining the Plan and the only participants in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act (the Act), pursuant to 29 CFR 2510.3-3(c). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code. The proposed exemption, if granted, would affect the Plan, Dr. Goel, and Sarla Goel, M.D.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before April 12, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3074. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200

Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523-7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan and Dr. Goel, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a defined contribution plan. The Plan participants are Dr. Goel and Sarla Goel, M.D. They are the trustees of the Plan.

2. The applicants request an exemption to permit the sale of 20 limited partnership interest, in JMB Income Properties, LTD-VII, an Illinois Limited Partnership (the Partnership Interests) by the Plan to Dr. Goel.

3. The Partnership Interests were purchased in 1980 by the Plan as an investment for $20,000 ($1,000 per Partnership Interest) pursuant to a specific public offering. Dr. Goel now proposes to purchase the Partnership Interests from the Plan for cash at the fair market value of the Partnership Interests on the date of sale.

4. The fair market value of the Partnership Interests for purposes of the proposed sale will be taken as the most recent trading price for independent sales of such interests, or, if there are no current independent sales, the mean between the current independent bid and asked prices.

5. In a letter dated November 6, 1981, Merrill Lynch, Pierce, Fenner and Smith, Inc., determined that as of November 5, 1981 the average transfer price per Partnership Interest was $1,000.

6. In summary, the applicants represent that the proposed transaction satisfies the criteria of section 4975(c)(2) of the Code because:

(1) It would be a one-time, cash transaction;

(2) The Plan would be able to dispose of relatively non-productive assets;

(3) The Plan will receive fair market value for its assets;

(4) The trustees of the Plan represent that the proposed transaction is in the interests of and protective of the Plan; and

(5) The Goels, who are the only participants in the Plan and the only persons affected by the transaction, have approved the proposed transaction and desire that it be consummated.

Notice to Interested Persons

Because the Goels are the only participants in the Plan, it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of 20 Partnership Interests by the Plan to Dr. Goel, provided that the amount received by the Plan is not less than the fair market value of the Partnership Interests at the time of the sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of March 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6832 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3098]

Proposed Exemption for Certain Transactions Involving Impact Sales, Inc., Employees Retirement Plan, Newport Beach, Calif.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department)

of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan of $420,000 by the Impact Sales, Inc. Employees Retirement Plan (the Plan) to the 40th Street Investors Company (Investors), a party in interest with respect to the Plan; and the guarantee of repayment by Impact Sales, Inc. (the Employer). The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, Investors and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department on or before April 21, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copiers) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3098. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by legal counsel for the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit plan which had 71 participants as of April 23, 1981. Its assets as of March 31, 1981 were valued at $1,565,404. The Plan trustee is the Security Pacific National Bank (Trustee).

2. The Employer is a holding company whose subsidiary companies are involved in the food brokerage business. As of December 31, 1980, the Employer had net assets in excess of $5.5 million.

3. Investors is a limited partnership consisting of eleven partners, all of whom are officers or directors of the Employer or one of its subsidiaries. The function of the partnerhsip is to acquire and lease an office building to Ken Sewell Company, a subsidiary of the Employer.

4. The Plan proposes to loan Investors $420,000 which will serve as permanent mortgage financing for an office building constructed by Investors on property located at lot 16, Eaton 40th Street Business Park, Phoenix, Arizona (the Property). In return the Plan will receive a promissory note and a first deed of trust on the Property. The proposed loan will be used to retire the construction loan made to Investors by the Valley National Bank in Phoenix, Arizona.

5. The loan will be for a ten year term, with monthly payments of principal and interest based on a 25 year amortization schedule. Investors will pay the Plan a loan fee equivalent to 2 points or $8,400. The interest rate on the loan for the first five years will be 15½ percent. For the second five years, the interest rate would be the greater of 15½ percent or ¼ of one percent above the prevailing interest rate for comparable mortgages in the Phoenix, Arizona area.

The loan will be secured by a first trust deed on the Property, by the guarantee of the Employer and by the assignment of rent received on the Property to the Plan. The first deed of trust will be recorded in the public records.

6. On January 19, 1982 the Property was appraised by R. Veldon Naylor, M.A.I., an independent appraiser, as having a fair market value of $630,000. Thus the loan would represent about 67% of the value of the Property and less than 27% of the Plan's assets. Investors represents that it will add any additional collateral that may be required during the life of the loan to assure that the value of the collateral is at all times equal to at least 150 percent of the outstanding balance of the loan. During the life of the loan, Investors will keep the Property fully insured, and any insurance proceeds collected as a result of damage to or the destruction of the Property will first be applied to make any outstanding payments due to the Plan.

7. The Sutter Trust Company of Phoenix, Arizona (the Bank) by letter dated January 7, 1981, has represented that it would lend Investors $400,000 for a 10 year period with the Property as collateral for the loan. The Bank's letter states that it would charge between 14⅝ and 14⅞ percent interest for the first five years of the loan and the amortization schedule for the loan would be based on a 28 to 30 year period. The Bank would also charge a fee of 2 points.

8. The applicant represents that the Trustee is an independent fiduciary with respect to the Plan and has no relationship with the Employer or any other party in interest other than being trustee of the Plan.

The Trustee has examined the terms of the proposed loan and determined that such a loan is appropriate and suitable for the Plan. The Trustee will be empowered and directed as holder of the promissory note and the beneficiary of the deed of trust to enforce the terms of such instruments, including making demand for timely payment, bringing suit or other appropriate process in the event of default, keeping accurate records and reporting at least annually on the performance of the loan, specifically including whether the value of the collateral securing the loan remains equal to at least 150 percent of the outstanding balance of the loan. The Trustee will be entitled to such information from the parties in interest as may be necessary to fulfill its responsibilities, and shall be paid reasonable compensation including reimbursement of expenses.

9. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The Plan will receive 15½ percent on its investment, which is greater than the rate which would be charged Investors by an unrelated party;

(b) Investors will insure the Property and add additional collateral so that the value of the collateral securing the loan is always at least 150 percent of the outstanding balance of the loan;

(c) The loan will be administered by an independent fiduciary;

(d) The loan will be guaranteed by the Employer; and

(e) The independent fiduciary has determined that the transactions are appropriate and suitable for the Plan.

Notice to Interested Person

Notice of the proposed exemption will be delivered or mailed to all present participants in and beneficiaries of the Plan within 10 days of publication in the **Federal Register**. Such notice will also be posted on appropriate employee bulletin boards within such 10 day period. Such notice will include a copy of the notice of pendency as published in the **Federal Register** and will inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of pendency.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before and exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above.

All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed loan of $420,000 by the Plan to Investors provided that the terms and conditions of the transaction are at least as favorable to the Plan as those it could obtain from an urelated party; and the guarantee of repayment by the Employer.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of March 1982.

Alan D. Lebowitz,

Assistant Adminstrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6833 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-3014 and 3015]

Proposed Exemption for Certain Transactions Involving the Michael Merkley Ranch, Inc. Defined Benefit Retirement Plan and the Michael Merkley Ranch, Inc. Profit Sharing Plan, Sacramento, Calif.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed leasing (the Proposed Lease) by the Michael Merkley Ranch, Inc. Defined Benefit Retirement Plan (the Defined Benefit Plan) and the Michael Merkley Ranch, Inc. Profit Sharing Plan (the Profit Sharing Plan collectively, the Plans) of certain real property (the Property) to Michael Merkley Ranch, Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plan and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before April 21, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D–3014 and D–3015. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523–8881. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of

the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Defined Benefit Plan, as of June 30, 1981, had 15 participants and assets of $149,365. The Profit Sharing Plan, as of June 30, 1981, had 15 participants and assets of $132,104. The Plans jointly own an undivided one- half interest in the Property. The owner of the remaining one-half interest in the Property is the Cooley Enterprises Inc. Retirement Plan which is an unrelated entity. The Property consists of 160 acres of agricultural property located in Yolo County, California. The Property has a house on it, which is rented to an unrelated party (the Tenant) for $500 per month. In addition, the Tenant has a crop-sharing lease (the Existing Lease) with the Plans. The Existing Lease contains payout ratios (the Payout Ratios) whereby the Plans are to receive 17% of the tomato crop and 40% of the wheat crop that are grown on the Property.

2. The applicant is requesting an exemption that will permit the Employer to enter into the Proposed Lease with the Plans for the purpose of crop-sharing the Property. Under the Proposed Lease arrangement, the house on the Property would remain rented to the Tenant for $500 per month and the Payout Ratios on the Proposed Lease will be identical to those of the Existing Lease. The Proposed Lease will be for a maximum period of five years and each party would be allowed to terminate the Proposed Lease on a yearly basis.

3. The applicant represents that the Employer is engaged in farming agricultural land on a large scale, and has the equipment and expertise to farm the Property more efficiently than it is presently being farmed. The applicant represents that because of the Employer's more efficient farming techniques the yield per acre will be greatly increased thus increasing the return to the Plan. As an example, the applicant cites that for 1980, under the Existing Lease, the Property had a wheat yield of 1.59 tons per acre and a tomato yield of 24.4438 tons per acre. By comparison, in 1980, on comparable land that the Employer farmed, the yield was 2.5928 tons per acre of wheat and 29.3587 tons per acre of tomatoes.

4. Landucci, Richter & Bick (LR & B), a certified public accounting firm which is independent of the Plan and the Employer, will examine the proposed transaction. The applicant represents that LR & B has experience with pension plans and agricultural leases. Prior to the Plan entering into the Proposed Lease LR & B: (1) Must certify that the Proposed Lease is in the best interests of the participants and beneficiaries of the Plans; (2) must certify that the terms and conditions of the Proposed Lease are at least as favorable to the Plans as those which the Plans could receive in a similar transaction with an unrelated party; and (3) monitor the terms and conditions of the Proposed Lease on behalf of the Plans. In addition, prior to the Plans entering into the Proposed Lease, Mr. Michael Merkley, the trustee of the Plans, must certify that the transaction will be in the best interest of the participants and beneficiaries of the Plans.

5. The applicant represents that the proposed transaction satisfies the requirements of section 408(a) of the Act because: (1) The trustee of the Plans will represent that the transaction is in the best interests of the participants and beneficiaries of the Plans; (2) the transaction will be approved and monitored by an independent fiduciary; and (3) the Plans will recieve a higher rate of return on their investment than they are presently receiving.

Notice to Interested Persons

Within ten days of its publication in the Federal Register a copy of the notice of pendency and a statement advising participants and beneficiaries of the Plans of their right to comment or request a hearing will be mailed to all participants and beneficiaries of the Plans.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, that fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2)

of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Proposed Lease of the Property by the Plans to the Employer provided that the terms and conditions of the Proposed Lease are at least as favorable to the Plans as those which the Plans could receive in a similar transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of March, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6834 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-29-M

[ORPS Application No. P-2114V]

Employee Benefit Plans; Reporting Exemption for the Employees Benefit Fund, Munising Mill of Kimberly-Clark Corporation

AGENCY: Office of Pension and Welfare Benefit Program.

ACTION: Notice of final exemption.

SUMMARY: The Department of Labor (the Department) hereby grants an exemption for the Employees Benefit Fund, Munising Mill of Kimberly Clark Corporation (the Fund) from the requirements to engage an independent qualified public accountant and to include an opinion rendered by such an accountant in the annual report of the Fund, as prescribed by section 103(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (the Act).

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. John A. Malagrin of the Department (202) 523-8684. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: On September 8, 1981, notice was published in the **Federal Register** (46 FR 44917) of the pendency before the Department of an exemption from certain annual reporting requirements of the Act for the Fund. The exemption was requested in a petition filed by William Kinnunen, Jr., Chairman of the Employees' Benefit Fund Committee, pursuant to section 104(a)(3) of the Act.[1]

The notice set forth a summary of the facts and representations contained in the petition for an exemption and referred interested persons to the petition on file with the Department for a complete statement of the facts and representations. The petition has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department and the petitioner has represented that it has complied with the procedure for notification to interested persons as set forth in the Notice of Pendency.

No public comments were received by the Department on the notice, and the Department has decided to grant the proposed exemption request. The Department cautions, however, that the exemption does not extend to any reporting and disclosure requirements other than the audit requirement of section 103(a)(3)(A) of the Act.

Reporting and Disclosure Exemption

In accordance with section 104(a)(3) of the Act and based upon the entire record, the Department finds that the audit requirements of section 103(a)(3)(A) of the Act are inappropriate as applied to the Fund.

Accordingly, the Fund is relieved from the requirement in section 103(a)(3)(A) to engage an independent qualified accountant and to include an opinion rendered by such an accountant in the annual report of the Fund.

The availability of this exemption is subject to the express conditions that (1) the Fund continues to be operated and funded in the same manner as described in the petition, (2) the material facts and representations contained in the petition are true and complete and the petition accurately describes all factors material to the granting of the exemption, and (3) the Fund continues to meet all other applicable reporting and disclosure requirements under Title I of the Act.

Signed at Washington, D.C., this 1st day of March 1982.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Program, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6410 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-29-M

[1] Under section 104(a)(3) the Secretary may exempt a welfare benefit plan from all or part of the reporting and disclosure requirements of Title I of the Act, or may provide for simplified reporting and disclosure if he finds that such requirements are inappropriate as applied to welfare benefit plans.

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Fisheries Panel; Meeting

March 5, 1982.

Pursuant to Section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. App (1976), notice is hereby given that the Fisheries Panel of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet Monday and Tuesday, March 29-30, 1982. The Fisheries Panel will meet in Room 418, Page Building #1, 2001 Wisconsin Avenue, NW., Washington, DC.

The Panel will use this session to review the draft text of its report prior to presentation of the report for consideration by the full Committee at the April 13-14, 1982 meeting.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Panel on Fisheries, Jay G. Lanzillo in advance of the meeting. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or Clarence P. Idyll, the Staff Member for the Fisheries panel.

The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 438, Page Building #1), Washington, DC 20235.

Dated: March 9, 1982.

Steven N. Anastasion,

Executive Director.

[FR Doc. 82-6780 Filed 3-11-82; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[82-14]

NASA Advisory Council, Space Systems and Technical Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Materials and Structures.

DATE AND TIME: April 1, 1982, 8:30 a.m. to 4 p.m.; April 2, 1982, 8:30 a.m. to 4 p.m.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Ave., SW., Room 625T, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. D. J. Weidman, National Aeronautics and Space Administration, Code RTM-6, Washington, DC 20546 (202/755-2364).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Materials and Structures was established to assist the NASA in assessing the current adequacy of Materials, Structures, and Structural Dynamics technology for space research and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program. The Subcommittee, chaired by Dr. John Hedgepeth, is comprised of eleven members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants).

Type of meeting: Open.

Agenda:

April 1, 1982

8:30 a.m.—Introduction.
8:45 a.m.—Review of Materials and Structures Program.
10:15 a.m.—Discussion of Space Platform Research.
2:15 p.m.—Discussion of Structures/Materials Flight Experiments.
4 p.m.—Adjourn.

April 2, 1982

8:30 a.m.—Discussion of Space Structure/Controls Activity.
11 a.m.—Committee Review of Issues.
1 p.m.—Develop Committee Recommendations.
4 p.m.—Adjourn.

Dated: March 8, 1982.

Robert F. Allnutt,

Acting Associate Administrator for External Relations.

[FR Doc. 82-6717 Filed 3-11-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Artists-in-Education Panel to the National Council on the Arts to be held March 31-April 2, 1982 from 9:00 a.m.-6:00 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on April 1, from 12 noon-6:00 p.m. and on April 2, from 9:00 a.m.-6:00 p.m. to discuss policy.

The remaining sessions of this meeting on March 31, from 9:00 a.m.-6:00 p.m. and April 1, from 9:00 a.m.-12 noon are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

March 8, 1982.

[FR Doc. 82-6710 Filed 3-11-82; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL RAILROAD PASSENGER CORPORATION

Corporation Bylaws Amendment; Meeting

Pursuant to an amendment to the Bylaws of the Corporation adopted by the Board of Directors on February 24, 1982, the Corporation will no longer publish notices of meetings in the **Federal Register.**

Section 4(e) of Appendix A to the Corporation's Bylaws now provides that "upon the written request of any member of the public for notices of meetings of the Board of Directors, the Secretary will include the name and mailing address of any such member of the public on the mailing list maintained by the Corporation." Members of the public wishing to receive notices of Board meetings may address their requests to Sandra Spence, Corporate Secretary, National Railroad Passenger Corporation, 400 North Capitol Street NW., Washington, D.C. 20001.

Sandra Spence,

Corporate Secretary.

March 9, 1982.

[FR Doc. 82-6805 Filed 3-11-82; 8:45 am]

BILLING CODE 000-00-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Structural Engineering; Meeting Change

The ACRS Subcommittee on Structural Engineering scheduled for March 22, 1982 at the AMFAC Hotel, 2910 Yale Blvd., Albuquerque, NM topic for discussion includes a review of Sandia's containment integrity program and *not* a visit to the Sandia structural laboratory. All other items regarding this meeting remain the same.

Dated: March 8, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-6804 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-348]

Alabama Power Co.; Issuance of Amendment and Negative Declaration to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. NPF-2 issued to Alabama Power Company (the licensee), which revised Technical Specifications for Operation of the Joseph M. Farley Nuclear Plant, Unit No. 1 (the facility) located in Houston County, Alabama. The amendment is effective as of the date of issuance.

The amendment consists of clarifications and wording changes of the present Unit 1 Technical

Specifications to conform, to the extent appropriate, with the recently issued Unit 2 Technical Specifications. Units 1 and 2 are essentially identical units. In some instances, these changes involve improvements in surveillance requirements and some added restrictions on Limiting Conditions for Operation (LCO) consistent with the Unit 2 Technical Specifications. In addition, Technical Specifications associated with resolved generic issues and plant-specific items are included. Among the more significant of these issues are: Radiological Environmental Reporting of Appendix I; hydraulic and mechanical snubbers; degraded grid voltage; definition of operability of safety related equipment; decay heat removal surveillance; auxiliary feedwater system; containment air-lock testing; containment purge and venting; organizational changes; fire protection equipment; F_Q change to allow steam generator tube plugging of the first row tubes; and improvements in diesel generator operation and surveillance. The amendment also incorporates (as Appendix B to the Technical Specifications) the Environmental Protection Plan (EPP) for Farley Unit 1.

The application for the amendment 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 amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Environmental Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated July 1972.

For further details with respect to this action, see (1) the application for amendment dated December 15, 1980, supplemented by letters dated May 28 and September 22, 1981. In addition, the amendment is responsive to the applications dated June 20, October 10 and 15, 1979, and January 8, February 28, March 28, May 19 and June 2, 1980 and February 2, October 28 and November 16, 1981; supplemented by letters dated March 1 and 20, April 16 and July 11, 1979, April 7, July 14 and 17, August 7, September 2 and 10 (2 letters), 1980, and July 13, October 14, October 23, November 6, 18 and 23, and December 4 and 8, 1981, (2) Amendment No. 26 to License No. NPF–2, (3) the Commission's related Safety Evaluation, and (4) the Commission's related Environmental Impact Appraisal. 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 George S. Houston Memorial Library, 212 Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2), (3) and (4) 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 1st day of March 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-6797 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-325 and 50-324]

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 46 and 69 to Facility Operating License Nos. DPR–71 and DPR–62 issued to Carolina Power & Light Company (the licensee) which revised the Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit 1 and revised the license for Brunswick Steam Electric Plant, Unit 2. The units are located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments revised the Technical Specifications for Brunswick Unit 1 and the license for Brunswick Unit 2 to provide a one-time extension of certain surveillance intervals to allow the required testing to be performed during a Brunswick Unit 2 outage scheduled for spring 1982.

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 the amendments will not result in any significant environmental impact and that pursuant to 10 CFR Section 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 amendments dated February 3, 1982 and a supplemental submittal dated February 25, 1982, (2) Amendment Nos. 46 and 69 to License Nos. DPR–71 and DPR–62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. 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 5th day of March 1982.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Acting Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 82-6798 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Issuance of Amendments to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 79 to Facility Operating License No. DPR–31, and Amendment No. 73 to Facility Operating License No. DPR–41 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to define the Reactor Coolant System Pressure Boundary integrity and to provide an alternate means of increasing assurance of proper valve position. In addition, certain administrative corrections have

been made to the Technical Specifications.

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 these 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 these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 10, 1981, (2) Amendment Nos. 79 and 73 to License Nos. DPR–31 and DPR–41, and (3) the Commission's related Safety Evaluation. 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 Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. 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 8th day of March 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-6799 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 72 to Facility Operating License No. DPR–49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center (DAEC), located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to incorporate organizational changes to reflect (1) changes to the DAEC nuclear plant staffing organization and (2) revisions to the Safety Committee appointment and reporting requirements.

The application for the amendment 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 amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment 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 this amendment.

For further details with respect ot this action, see (1) the application for amendment dated December 23, 1981, (2) Amendment No. 72 to License No. DPR–49, and (3) the Commission's letter to Iowa Electric Light and Power Company dated March 5, 1982. 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 Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401. 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 5th day of March 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 82-6800 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 77 to Facility Operating License No. DPR–46, issued to Nebraska Public Power District (the licensee), which revised the Technical Specifications for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. The amendment is effective as of the date of issuance.

The amendment modifies the Technical Specifications regarding the Scram Discharge Volume (SDV) and include: SDV vent and drain value surveillance, the addition of a SDV control rod block and surveillance requirement, and clarifications of an administrative nature pertaining to the minimum number of APRM operable instrument changes required for the rod block monitors.

The application for the amendment 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 amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 21, 1980, (2) Amendment No. 77 to License No. DPR–46 and (3) the Commission's related Safety Evaluation. 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 Auburn Public Library, 118 15th Street, Auburn, Nebraska 68304. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 4th day of March 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-6801 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas and Electric Co., San Onofre Nuclear Generating Station Unit 1; Exemption

I

The Southern California Edison Company (the licensee) is a holder of Provisional Operating License No. DPR-13 which authorizes operation of the San Onofre Nuclear Generating Station Unit 1 (the facility). The license provides, among other things, that the San Onofre Nuclear Generating Station Unit 1 (San Onofre 1) is subject to all rules, regulations and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a pressurized water reactor located in San Diego County, California.

II

Section III.J of Appendix R to 10 CFR Part 50 requires that emergency lighting units with at least an eight hour battery power supply be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto. By application dated December 22, 1981, the licensee requested an exemption from the requirements for installation of battery-powered emergency lighting inside containment at San Onofre Unit 1.

The licensee's December 22, 1981 submittal states that present emergency shutdown procedures for certain worst case fires outside of the containment would require shutdown operations to be performed inside the containment 8-10 hours after the initiation of the fire. These operations involve the initiation of the Residual Heat Removal (RHR) System. The licensee is considering other shutdown approaches which would eliminate the need for the operator to enter the containment. The licensee is concerned that: (1) That corrosive electrolyte is subject to introduction into the containment atmosphere on rupture of the battery, (2) radiation degradation of the battery enclosure may lead to leakage of the electrolytes, (3) the battery may explode when exposed to loss-of-coolant or steam-line break environments, and (4) the hydrogen emitted during charging has not been accounted for in previous safety evaluations.

Based on our review of the licensee's submittal, the staff has concluded that fire damage of concern which occurs outside the containment, should not damage lighting circuits inside the containment, so that simple repair procedures should be sufficient to restore power to such lighting circuits in the 8-10 hours time available. In addition, Appendix R to 10 CFR Part 50 allows up to 72 hours to make repairs needed and attain cold shutdown so that should a fire occur inside containment that damages the lighting circuits, the licensee has ample time to repair lighting circuits or install portable lighting.

Any emergency battery-powered lighting that might be installed inside containment prior to the fire would probably be exhausted in the 8-10 hours needed to reach primary system conditions where operation of equipment necessary to reach cold shutdown could be initiated; therefore, portable lighting would have to be installed.

Based on our evaluation, we conclude that the installation of battery-powered lighting within the containment will not significantly enhance the level of post-fire shutdown capability and its omission will not endanger the health and safety of the public. Accordingly, we conclude that the licensee's request to be exempted from Section III.J of Appendix R to 10 CFR Part 50, to the extent that it requires the installation of battery-power emergency lighting within the containment, should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security, is otherwise in the public interest, and is hereby granted.

The Commission has determined that the granting of this exemption 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 this action.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 5th day of March 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-6802 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

Regional State Liaison Officers' Meeting

On March 31 and April 1, 1982, the Nuclear Regulatory Commission (NRC) will sponsor a regional meeting with the Governor-appointed State Liaison Officers from Alaska, Arizona, California, Hawaii, Nevada, Oregon and Washington. The subjects which will be discussed include emergency planning, waste management, spent fuel shipments and notification, regionalization as well as other items of mutual regulatory interest.

The meeting will be conducted at the NRC Region V Office, 1450 Maria Lane, Walnut Creek, California. The meeting is open to the public for attendance and observation and will take place from 9:00 a.m. until 5:15 p.m. on Wednesday, March 31, and from 8:30 a.m. until 12:15 p.m. on Thursday, April 1, 1982.

Questions regarding this meeting should be directed to Sue Weissberg at (301) 492-9877.

Dated at Bethesda, Maryland this 5th day of March 1982.

For The Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 82-6803 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-18547; File No. SR-BSE-82-2]

Boston Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Changes; Relating to an Amendment to the Guaranteed Execution Rule, Chapter II, Section 33

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 1, 1982, the Boston Stock Exchange, Inc., filed with the Securities and Exchange Commission the proposed changes as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

The Boston Stock Exchange, Inc., proposes to amend Chapter II, Section 33 of its Rules relating to increasing the size of orders to be excecuted under its Guaranteed Execution System from 399 shares to 599 shares, and to change the basis of such execution to the best bid or offer displayed on the Consolidated Quotation System rather than the primary market quote.

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 governing 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) The proposed amendment to the Guaranteed Execution System is composed of two significant changes. The first would provide for guaranteed execution of all orders up to 599 shares in those issues traded through the Intermarket Trading System (ITS), increased from 399 shares, and secondly, it establishes as the basis of execution the best bid or offer displayed on the Consolidated Quotation System in lieu of the primary market quote. The amendment was necessary to remain competitive with execution systems in existence on other Exchanges and will enable the Exchange to effectively compete for small order business which, in turn, will enhance the depth and liquidity of the Exchange markets for the investing public.

(b) The basis under the Act for the proposed Rule change is Section 6(b)(5) and 11(b) since the Rule change will work towards a more competitive national market system by increasing the ability of Boston specialists to make in depth markets in securities in which they are registered.

(B) *Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe the proposed amendment imposes any burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

No comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before April 16, 1982, or within such longer period (i) as the Commission may designate up to 90 days of such date if if 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 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, DC 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 April 2, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 8, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6732 Filed 3-11-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0439]

Transworld Ventures, Ltd., Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of Transworld Ventures, Ltd. (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New York, and it will commence operations with a capitalization of $517,000.

The Applicant will have its place of business at 501 Fifth Avenue, New York, New York 10017, and it intends to conduct operations primarily in the State of New York. Applicant intends to conduct research to evaluate and determine which investment possibilities are best suited to further its investment philosophy which is toward recently formed enterprises which appear to show prospects for growth and which offer needed products and services.

The officers, directors and proposed ten percent (10%) or more stockholders of the Applicant will be:

Daniel G. Donelli, Via Castausio, 22, 6900 Lugano, Switzerland, Chairman of Board
Jack H. Berger, 65 E. 80th Street, New York, N.Y. 10021, President, Chief Executive Officer, Director
Seymour Deutsch, 300 Edwards Street, Roslyn Heights, N.Y. 14619, Secretary, Treasurer, Director
Renee Berger, 65 E. 80th Street, New York, N.Y. 10021, Director
William B. May, Jr., Ardsley Avenue, Irvington, N.J. 08109, Director
Rolando Ghedini, 314 W. 77th Street, New York, N.Y. 10022, Director
Lawrence J. Levy, 8720 Azalea Court, Tamarac, FL 33320, Director
Interholding Inc., Ltd., Craigmuir, Chambers Road, Town Tortola, British Virgin Islands, 50%
Multinational Financial Services, Ltd., 501 Fifth Avenue, New York, N.Y. 10075, 20%
DeMatteis Development Corp., 820 Elmont Road, Elmont, N.Y. 11462, 10%
William B. May Company Real Estate, Inc., 3 West 57th Street, New York, N.Y. 10019, 10%
Peter Ordway, 1 Pelican Lane, Palm Beach FL 33408, 10%

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operation of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, on or before March 22, 1982, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 8, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6838 Filed 3-11-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 797]

Border Crossing Cards

Notice is hereby given that, effective April 1, 1982, the Unites States Consulate General at Tijuana, Mexico, will be authorized to issue border-crossing cards to nationals of Mexico as specified in 22 CFR 41.128(b).

This authorization constitutes an extension of the testing of this procedure described in the Supplementary Information of the Department's regulatory publication of November 4, 1981 (46 FR 54729).

Dated: March 4, 1982.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 82-6811 Filed 3-11-82; 8:45 am]

BILLING CODE 4710-06-M

VETERANS ADMINISTRATION

Geriatrics and Gerontology Advisory Committee; Meeting

The Veterans Administration, in accordance with Pub. L. 92-463, gives notice that a meeting if the Geriatrics and Gerontology Advisory Committee will be held at the Veterans Administration Medical Center, St. Louis, Missouri, on March 25, 1982.

The purpose of the meeting is to evaluate the research, education and clinical service being provided through the Geriartic Research Education and Clinical Centers as required by Pub. L. 96-330. The meeting will be closed since it involves discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents. The discussion and recommendations will deal with qualifications of personnel conducting these studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the prematue disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. Closure of the meeting is in accordance with subsection 10(d) of Pub. L. 92-463, as amended by Pub. L. 94-409, and as cited in 5 U.S.C. 552b(c)(6) and (9)(B).

Dated: March 8, 1982.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82-6734 Filed 3-11-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 49
Friday, March 12, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, March 16, 1982.

PLACE: Commission Conference Room 5240, Fifth Floor, Columbia Plaza Office Building, 2401 E. Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Freedom of Information Act Appeal No. 82-2-FOIA-10-SL, concerning a request for all records in a closed file in which the issue investigated was alleged retaliation against the requestor.
2. Freedom of Information Act Appeal No. 81-12-FOIA-075-MK, concerning a request for materials relative to the Commission's investigation of a sex discrimination charge under Title VII presently in litigation.
3. Freedom of Information Act Appeal No. 82-1-FOIA-11-HDO, concerning a request for fifteen draft memoranda regarding a report to the Commissioners on the requestor's time and attendance and use of copying material.
4. Freedom of Information Act Appeal No. 81-12-FOIA-72-PA, concerning a request for access to all documents contained in an Equal Pay Act Compliant file.
5. Freedom of Information Act Appeal No. 81-12-FOIA-68-NO, concerning a request for documents from an open charge file.
6. Recommended FY-82 contracts for Age Discrimination Charge Processing.
7. Recommended FY-82 contracts for Tribal Employment Rights Offices (TEROS).
8. Report on Commission Operations by the Executive Director.

Closed:

Litigation Authorization; General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTRACT PERSON FOR MOME INFORMATION: Trava McCall, Executive Officer, at (202) 634-6748.

This Notice Issued March 9, 1982.

[S-375-82 Filed 3-10-82; 10:53 am]

BILLING CODE 6570-06-M

2

FEDERAL RESERVE SYSTEM

(Board of Governors).

TIME AND DATE: 10 a.m., Wednesday, March 17, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Publication for comment of proposed amendments to Regulation E (Electronic Fund Transfers) to exempt certain small institutions, relax requirements for foreign-initiated and interchange-system transfers, and eliminate duplicate periodic statements for certain intrastitutional transfers.

*2. Proposal to adopt 1982 fee schedule for wire transfer and net settlement services.

3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: March 9, 1982.

James McAfee,

Assistant Secretary of the Board.

[S-377-82 Filed 3-10-82; 11:22 am]

BILLING CODE 6210-01-M

3

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: Approximately 11:30 a.m., Wednesday, March 17, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

*Anyone planning to attend specifically for Item 2 should contact the office below on Tuesday, March 16, 1982, to assure that it has not been postponed to a future meeting.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement to the Consumer Affairs Subcommittee of the Senate Banking, Housing and Urban Affairs Committee regarding electronic funds transfers.
2. Automated Clearing House (ACH) pricing.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: March 9, 1982.

James McAfee,

Assistant Secretary of the Board.

[S-378-82 Filed 3-10-82; 11:28 am]

BILLING CODE 6210-01-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-11]

TIME AND DATE: 10 a.m., Tuesday, March 23, 1982.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 751-TA-5 (Salmon Gill Fish Netting)—briefing and vote.
6. Investigation 731-TA-44 [Final] (Sorbitol from France)—briefing and vote.
7. Any items left over from previous agenda: Investigation 731-TA-3 (Sugar from Canada)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-376-82 Filed 3-10-82; 10:53 am]

BILLING CODE 7020-02-M

5

NATIONAL SCIENCE BOARD

DATE AND TIME:

March 17, 1982, 7 p.m., open session
March 18, 1982, 9:30 a.m., closed session
March 19, 1982, 8 a.m., open session; 10 a.m., closed session

PLACE: National Science Foundation, 1800 G Street, N.W., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS: Wednesday, March 18, 7:00 p.m.:

1. Minutes—Open Session—233rd Meeting.
2. Chairman's Items.
3. Director's Report:
   a. Report on Grant and Contract Activities—2/17–3/16/82.
   b. Organizational and Staff Changes.
   c. Congressional and Legislative Matters.
   d. NSF Budget for Fiscal Year 1983.
   e. Commercial Involvement with NSF-Supported Research Facilities and Equipment.
   f. Regulations on the Handicapped under the Rehabilitation Act of 1973.
   g. Other Items.
4. Program Review—Scientific Ocean Drilling.

Friday, March 19, 8 a.m. (conclusion of open session):

5. Grants, Contracts, and Programs.
6. Reports on Meetings of Board Committees.
7. Board Representation at Site Visits and Annual Reviews.
8. Other Business.
9. Next Meeting—National Science Board—May 20–21, 1982.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION: Thursday, March 18, 9:00 a.m.:

A. Minutes—Closed Session—233rd Meeting.
B. NSB Annual Reports.
C. NSB and NSF Staff Nominees.
D. Alan T. Waterman Award.
E. Report of 1982 Ad Hoc Nominating Committee for Board Officers.

Friday, March 19, 10 a.m.:

F. Grants, Contracts, and Programs.
G. NSF Budgets for Fiscal Year 1984 and Subsequent Years.

CONTACT PERSON FOR MORE INFORMATION: Ms. Margaret L. Windus, Executive Officer, NSB, 202/357–9582.

[S–379–82 Filed 3–10–82; 1:38 pm]

BILLING CODE 7555–01–M

6

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1285]

TIME AND DATE: 10:15 a.m. (e.s.t.), Wednesday, March 17, 1982.

PLACE: Conference Room B–32, West Tower, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ACTION ITEMS:

Old Business

1. Proposed form agreements amending Home Insulation Program and Heat Pump Financing Plan agreements to cover interim changes in financing arrangements.

New Business

B—Purchase Awards
1. Amendment to Contract No. 79P66–143178 with General Electric Company for Reload Fuel for Browns Ferry Nuclear Plant.

C—Power Items
1. Arrangements establishing emergency interconnection points with East Kentucky Power Cooperative and conveyance to East Kentucky and Glasgow of portions of TVA's deenergized Summer Shade-Oakland 69-kV Transmission Line.
2. Letter agreement with East Kentucky Power Cooperative providing for TVA to transmit up to 100 MW of power and energy across TVA's system from East Kentucky to Mississippi Power and Light Company.
*3. Letter agreement with Cities Service Company providing for a one-week extension of power supply for operation of its Copperhill, Tennessee, plant.
4. Letter agreement with Memphis Light, Gas and Water Division covering arrangements for establishment of a 161-kV delivery point at TVA's New Shelby 500-kV Substation.
5. Letter agreement with Central Electric Power Association, Carthage, Mississippi, covering arrangements for service to distributor's Langford Substation.
6. Supplement to contract with Department of Energy for coal cleaning studies.
7. Supplement to contract with the University of Tennessee at Knoxville for coal feeding and fluidization studies in a fluidized bed.

D—Personnel Actions
1. Supplement to personal services contract with Nuclear Support Services, Inc., Woodbridge, Virginia, for services of health physics technicians, requested by the Division of Occupational Health and Safety.

E—Real Property Transactions
1. Grant and conveyance of easements and highway rights of way to Marion County, Alabama, for highway adjustments due to the construction and operation of Upper Bear Creek Dam and Reservoir.
2. Grant of permanent easement to the State of Alabama for the construction, operation, and maintenance of a highway, affecting 7.22 acres of Guntersville Reservoir land—Tract No. XTGR–141H.
3. Grant of permanent easement for sewerage system facilities to Guntersville Water and Sewer Board, affecting approximately 6.5 acres of Guntersville Reservoir land—Tract Nos. XTGR–136S, XTGR–137PS, XTGR–138PS, XTGR–139PS, and XTGR–140PS.

F—Unclassified
*1. Contract for economic development assistance to Kiamichi Economic Development District of Oklahoma.
2. Retention of net power proceeds and nonpower proceeds pursuant to Section 26 of the TVA Act.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington, Office (202) 245–0101.

*Item approved by individual Board members. This would give formal ratification to Board's action.

Dated: March 10, 1982.

[S–380–82 Filed 3–10–82; 2:46 pm]

BILLING CODE 8120–01–M

federal register

Friday
March 12, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications To General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Colorado: CO82-5103	Feb. 12, 1982.
Georgia:	
GA82-1006	Feb. 19, 1982.
GA82-1007	Feb. 19, 1982.
Iowa: IA81-4089	Nov. 13, 1981.
Montana: MT81-5138	Aug. 7, 1981.
New Jersey:	
NJ81-3053	Oct. 9, 1981.
NJ81-3063	Dec. 28, 1981.
Pennsylvania:	
PA81-3044	Aug. 7, 1981.
PA82-3007	Feb. 26, 1982.

Supersedeas Decisions to General Wage Determination Decision

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.

Florida: FL81-1247 (FL82-1019)	June 12, 1981.
Hawaii: HI81-5153 (HI82-5105)	Sept. 25, 1981.
Ohio: OH80-2071 (OH82-2019)	Aug. 8, 1980.
Oregon: OR81-5127 (OR82-5100)	July 6, 1981.
Pennsylvania: PA80-3031 (PA82-3011)	Aug. 29, 1980.
Wisconsin:	
WI80-2014(WI82-2015)	April 4, 1980.
WI80-2040(WI82-2016)	May 30, 1980.
Wyoming: WY81-5108 (WY82-5106)	April 3, 1981.

Signed at Washington, D.C. this 5th day of March 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION NO. CO82-5103 - Mod. #1 (47 - FR 6549 - February 12, 1982) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons:					
Remaining Counties	$14.49	.85	$1.10		.06
Carpenters:					
Area 4:					
Zone 1	12.22	1.10	1.00	1.00	.10
Zone 2	12.72	1.10	1.00	1.00	.10
Zone 3	12.97	1.10	1.00	1.00	.10
DECISION #GA82-1006 - Mod. #1 (47 FR 7599 - February 19, 1982) DeKalb & Fulton Counties, Georgia					
CHANGE:					
Electricians	$14.45	7%	13%		½ of 1%
DECISION #GA82-1007 - Mod. #1 (47 FR 7597 - February 19, 1982) Clayton, DeKalb, & Fulton Counties, Georgia					
CHANGE:					
Boilermakers	$14.50	1.475	1.50		.04
Electricians:					
Wiremen	14.45	7%	13%		½ of 1%
Cable splicers	15.35	7%	13%		½ of 1%

DECISION NO. IA81-4089 - MOD. #4 (46 FR 56122 - November 13, 1981) Clinton County, Iowa	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Building, water treatment plants & sewage disposal plants construction:					
Plumbers & steamfitters	$15.25	.81	1.24		.15
DECISION NO. MT81-5138 - Mod. #4 (46 FR 40439 - August 7, 1981) Statewide, Montana					
Change:					
Electricians:					
Area 4	$16.70	.70	3%+.50		1/2%
Line Construction:					
Flathead, Lake and Lincoln Counties:					
All work for power utiltites, all highway lighting, street lighting and motor traffic controlling:					
Lineman	15.59	.45	3%+.50		1/2%
Cable Splicers	17.35	.45	3%+.50		1/2%
Pole Sprayer	13.85	.45	3%+.50		1/2%
Line Equipment Operators	13.29	.45	3%+.50		1/2%
Powderman, Jackhammer, Compressorman	11.52	.45	3%+.50		1/2%
Groundman "A"	10.81	.45	3%+.50		1/2%
Tree Trimmer	14.37	.45	3%+.50		1/2%
Truck Drivers:					
Statewide - attached					

DECISION NO. MT81-5138 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMBINATION TRUCK; Concrete Mixer and Transit Mixer:					
To & including 4 cu. yds.	$11.85	$1.23	.84		
Over 4 cu. yds. to and including 6 cu. yds.	11.93	1.23	.84		
Over 6 cu .yds. to and including 8 cu. yds.	12.01	1.23	.84		
Over 8 cu. yds. to and including 10 cu. yds.	12.09	1.23	.84		
Over 10 cu. yds.-additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER	11.53	1.23	.84		
DRY BATCH TRUCKS:					
3 Batch or under	11.60	1.23	.84		
Over 3 Batch to and including 5 Batch	11.73	1.23	.84		
Over 5 Batch to and including 10 Batch	11.89	1.23	.84		
Over 10 Batch to and including 15 Batch	12.05	1.23	.84		
Over 15 Batch-additional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	11.70	1.23	.84		
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters	11.60	1.23	.84		

DECISION NO. MT81-5138 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS And SIMILAR EQUIPMENT, DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons:					
Water Level Capacity, including Sideboards:					
7 cu. yds. or less	$11.60	$1.23	.84		
Over 7 cu. yds. to and including 10 cu. yds.	11.73	1.23	.84		
Over 10 cu. yds. to and including 15 cu. yds.	11.89	1.23	.84		
Over 15 cu. yds. to and including 20 cu. yds.	12.03	1.23	.84		
Over 20 cu. yds. to and including 25 cu. yds.	12.09	1.23	.84		
Over 25 cu. yds. to and including 30 cu. yds.	12.15	1.23	.84		
Over 30 cu. yds. to and including 35 cu. yds.	12.21	1.23	.84		
over 35 cu. yds. to and including 40 cu. yds.	12.27	1.23	.84		
Over 40 cu. yds. to and including 45 cu. yds.	12.33	1.23	.84		
Over 45 cu. yds.-additional $.10 per hour each additional 5 cu. yds. increment					
DUMPSTERS	11.73	1.23	.84		
POWER TRUCK DRIVER (bulk unloader type)	11.78	1.23	.84		
FLAT TRUCKS:					
To and including 3 tons	11.75	1.23	.84		
Over 3 tons factory rating	11.95	1.23	.84		

DECISION NO. MT81-5138 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FUEL TRUCK DRIVERS; TIREMEN	$12.19	$1.23	.84		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	11.95	1.23	.84		
LUMBER CARRIERS, LIFT TRUCK and FORK LIFTS	11.85	1.23	.84		
POWER BROOM	11.69	1.23	.84		
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	11.60	1.23	.84		
Over 2,500 gallons to and including 4,500 gallons	11.89	1.23	.84		
Over 4,500 gallons to and including 6,000 gallons	12.09	1.23	.84		
Over 6,000 gallons to and including 8,000 gallons	12.15	1.23	.84		
Over 8,000 gallons to and including 10,000 gallons	12.23	1.23	.84		
Over 10,000 gallons - additional $.10 per hour each additional 2,000 gallons increment					
TRUCK MECHANIC	12.59	1.23	.84		

DECISION NO. NJ81-3053 - MOD. #7
(46 FR 50243 - October 9, 1981)
BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET SUSSEX, UNION AND WARREN COUNTIES, NEW JERSEY

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

CHANGE:

LABORERS BUILDING CONSTRUCTION ZONES

ZONE 1
PASSAIC (Twps. of Boroughs Passaic, Garfield, Lodi, Wallington, Delawanna, Allwood, Athenia and Clifton to Piaget Avenue; Paterson, and the Boroughs and Townships of Albion Place, Little Falls, Totowa Borough, West Paterson, Wayne, Hawthorne, Pompton, Haledon, Clifton to Piaget Avenue, West Milford, Ringwood, Bloomingdale, New Jersey and East Paterson to the Garfield boundary line) County.

ZONE 2
BERGEN (CLIFFSIDE: Borough of Cliffside Park: Borough of Fort Lee, south of Central Boulevard; Borough of Palisades Park, south of Central Boulevard; Borough of Ridgefield; Borough of Edgewater, and Borough of Fairview; HACKENSACK: City of Hackensack; Hasbrouck Heights; Little Ferry; South Hackensack; Ridgefield Park; Bogota; Teaneck Township, west of Teaneck Road and South of Fort Lee Road; Maywood; Saddle Brook Township; Borough of Paramus, east of Sprout Brook; and the Borough of River Edge; New Milford; Teterboro; Bendix; and Rochelle Park; ENGLEWOOD: City of Englewood; Borough of Dumont; Borough of Bergenfield; Borough of Palisades Park, north of Central Boulevard to Edgewater; Fort Lee, to the Hudson River; Borough of Fort Lee, north of Central Boulevard; Township of Teaneck, east of Teaneck Road and north of Fort Lee Road; Borough of Leonia; Borough of Englewood Cliffs; Borough of Tenafly; Borough of Cresskill; Borough of Demarest; Borough of Closter; Borough of Oradell; Borough of Montvale; Borough of Woodcliff Lake; Borough of Park Ridge; Borough of Hillsdale; Township of Washington; Borough of Westwood; Borough of Emerson; Borough of Haworth; Borough of Alpine; Borough of Rockleigh; Borough of Norwood; Borough of Harrington Park; Borough of Old Tappan; Borough of Northvale; and Township of Rivervale; LYNDHURST: Rutherford; East Rutherford; Wood-Ridge; Carlton; Carlstadt; North Arlington and Moonachie; RIDGEWOOD: Village of Ridgewood; Borough of Fair Lawn; Borough of Glen Rock; Borough of HoHoKus; Borough of Saddle River; Borough of Upper Saddle River; Borough of Allendale; Borough of Ramsey; Borough of Waldwick; Borough of Midland Park; Borough of Oakland; Borough of Franklin Lakes; Township of Wykoff; Township of HoHokus; and the Borough of Paramus with the exception of portion of Paramus, east of Sprout Brook and Borough of Mahwah) County.

DECISION NO. NJ81-3063 - MOD. #4 (46 FR 62746 - December 28, 1981)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY					
CHANGE:					
ASBESTOS WORKERS:					
ZONE 1	15.92	1.10	1.35		.06
LABORERS, BUILDING CONSTRUCTION:					
ZONE 5					
Laborers	9.40	.90	1.45		.10
Jackhammers	9.65	.90	1.45		.10
DECISION NO. PA81-3044 MOD. NO. 10 (46 FR 40477 - August 7, 1981) Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford & Venango Counties, Pennsylvania					
CHANGE:					
Carpenters & Soft floor layers					
Zone 3	$12.65	6½%	8%	10%	
Glaziers					
Zone 2	13.84	.60	.80		.02
DECISION NO. PA82-3007 MOD. NO. 1 (47 FR 8529, Feb. 26, 1982) Bucks, Chester, Delaware, Montgomery & Philadelphia Cos., Pennsylvania					
CHANGE:					
DECISION REFERENCE TO READ: "Supersedes Decision No. PA80-3055, dated October 3, 1980, in 45 FR 65902" NOT "Decision No. PA81-3060".					

STATE: FLORIDA COUNTY: *See Below
DECISION NUMBER: FL82-1019 DATE: Date of Publication
Supersedes Decision No.: F181-1247 dated June 12, 1981 in 46 FR 31187.
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and apartments of 4 stories or less).

*Volusia (except Cape Kennedy Space Flight Center and Cape Canaveral Air Force Station, Florida)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.26	.65	1.10		.08
BOILERMAKERS	14.50	1.375	1.50		.04
BRICKLAYERS	8.40	.50	.20		.05
CARPENTERS	9.25	.55	.80		.12
ELECTRICIANS:					
a. Base Zone - (within 40 Miles of Daytona Beach)					
Electricians	11.63	.50	3% +1.00		.05
Cable Splicers	11.88	.50	3% +1.00		.05
b. Zone I - (all work beyond 40 miles of Daytona Beach and not accessible by public roads-Industrial work in excess of 300,000 electrical or 3,000,000 total permit-power generation plants)					
Electricians	13.70	.50	3% +1.00		.05
Cable Splicers	13.95	.50	3% +1.00		.05
ELEVATOR CONSTRUCTORS:					
Mechanic	12.19	1.345	1.085	a	.035
Helper	8.53	1.345	1.085	a	.035
IRONWORKERS	12.58	.90	.90	.65	.05
LABORERS:					
a. Air Tool Operators, Mason Tenders, Mortar Mixers, Pipelayers (clay & concrete), Plasterers Tenders	8.15	.25	.39		
b. Unskilled	8.00	.25	.39		
LATHERS	8.88	.35	.25		.15
MARBLE SETTERS	8.40	.50	.20		.05
MILLWRIGHTS	13.17	.70	.70		.10
PILEDRIVERMEN	9.75	.55	.80		.12
PAINTERS:					
Brush & Roller	9.65	.50	.50		.06
Paperhangers, Sandblasters, & Spray	10.15	.50	.50		.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS, PIPEFITTERS, & STEAMFITTERS					
a. Commercial	$12.22	.70	.70		.10
b. Industrial	15.45	.98	.99		.10
ROOFERS:					
a. Roofers	10.50	.45	.25		.10
b. Kettlemen	9.05	.45	.25		.10
SHEET METAL WORKERS	10.96	3%+.55	.44		.08
SOFT FLOOR LAYERS	9.25	.55	.80		.12
SPRINKLER FITTERS	14.15	.85	1.20		.13
TILE & TERRAZZO WORKERS	8.40	.50	.20		.05
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Group I	12.18	.55	.50		.06
Group II	11.00	.55	.50		.06
Group III	8.80	.55	.50		.06

Group I - Crane or Derrick Oper., Clam Shell Oper., Dragline Oper., Piledriver Oper. including Auger & Boring Machine Oper. for Drilling in Piling, Backhoe Oper., Hydra Crane Oper., Gradall Oper., Shovel Oper., Patrol, Cable Ways Oper., Tugboat Captain (150 H.P. or more) Multi-Bowl Oper. (similar to R.G. LaTourneau Model L-60-2 or 3 twenty cubic yard scrapers), Side Boom Cat Oper., Multi-Drum Hoist Oper. for Rigging Work, Mechanic (heavy equipment), Tower Crane Oper. (stationary, climbing, & traveling), Gantry Crane Oper., Locomotive Crane Oper., Bridge Crane Oper. (over 20 tons capacity), Concrete Pump w/boom (mobile) Oper., Highlift or Forklift Oper. (10' or higher), Locomotive Engineer (for job use that does not infringe upon the rights of Railroad Unions).

Group II - Bulldozer Oper., Bridge Crane Oper. (20 tons & under), Highlift or Forklift Oper. (less than 10'), Straddle Buggy Oper., Hoist Oper. (other than rigging work) including Winch Truck Oper. where Winch Truck is not mobile and used as a Hoist, Trenching Machine Oper. (ladder & wheel type) over 6' cut & over 24" in width, Concrete Paver Oper., Scraper Oper., Front End Loader Oper., Fireman-Floating Equipment, Mobile Winch Truck Oper., Self-Propelled Sub-Grader Oper., Asphalt Paving Machine Oper., Lubricating Engineer (mobile plant), Pavement Breaker Oper..

Group III - Tractor Operated Sweeper Oper., Trenching Machine Oper. (ladder & wheel type) maximum cut 6' and maximum width 24", Fireman, Self-Propelled Roller Oper., Wellpoint pump Oper. & Supervise Installation (one oper. for 3 pumps, not including standby units, within 300 ft. radius), Aphalt Distributor Oper., Water Truck Driver, Motor Boat Oper., Oiler, Pumpman (other than wellpoint) up to & including Pumps within 300 ft. radius, Conveyors Oper. (motor operated), Welding Machine Oper. (3 or more combustion type), Pulver Mixer Oper., Compressor Oper. (from 1 up to and including 3 compressors within 300 ft. radius, Self-Propelled Sweeper Oper., Combination Pump, Compressor & Combustion Type Welding Machine Oper. (any group of 3 units) w/300 ft. radius, Concrete Mixer Oper., Concrete Pump Oper., Tractor Oper., Street Sweeping Mach., Oper.

FOOTNOTES:

a. Six Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years, 6% of regular hourly rate for employee who has worked in business less than 5 years.

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: Hawaii COUNTIES: Statewide
DECISION NUMBER: HI82-5105 DATE: Date of Publication
Supersedes Decision No. HI81-5153 dated September 25, 1981, in 46 FR 47394
DESCRIPTION OF WORK: Building Projects; Residential Projects (consisting of single family homes and apartments up to and including 4 stories); Heavy and Highway Projects and Dredging

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.53	.90	$ 2.90	$1.30	.06
BOILERMAKERS	13.90	.93	1.25	1.00	.03
BRICKLAYERS; Stonemasons	13.48	1.45	3.00	.80	.20
CARPENTERS:					
Carpenters; Hardwood Floorlayers; Patent Scaffold Erectors; Pneumatic Nailer; Shinglers	11.00	1.44	1.95	1.00	.06
Power Saw Operator (2 HP and over)	11.15	1.44	1.95	1.00	.06
Millwrights	11.25	1.44	1.95	1.00	.06
CEMENT MASONS:					
Cement Masons	13.43	1.45	2.15	.70	.20
Troweling Machine Operators	13.58	1.45	2.25	.80	.20
DRAPERY INSTALLERS	6.45	.50	.40	b	
DRYWALL APPLICATOR	11.10	1.44	1.95	1.00	.07
ELECTRICIANS:					
Electricians; Linemen	13.64	1.22	15%+1.94	11.6%	.55
Technicians	14.05	1.22	15%+1.94	11.6%	.55
Cable Splicers	15.00	1.22	15%+1.94	11.6%	.55
ELEVATOR MECHANICS	16.685	1.345	1.085	a	.035
HELPERS	11.68	1.345	1.085	a	.035
PROBATIONARY HELPER	8.34				
FENCE ERECTORS:					
Chain Link	5.39	.23	.29	.10	.03
GLAZIERS	11.10	1.20	1.37	.97	.15
IRONWORKERS:					
Bridge; Ornamental; Reinforcing; Structural	13.00	1.25	1.45	1.85	.12
LINE CONSTRUCTION:					
Electricians; Linemen	13.64	1.22	15%+1.94	11.6%	.55
Technicians	14.05	1.22	15%+1.94	11.6%	.55
Heavy Equipment Operator	12.28	1.22	15%+1.94	11.6%	.55
Groundmen	10.23	1.22	15%+1.94	11.6%	.55
Cable Splicers	15.00	1.22	15%+1.94	11.6%	.55
MARBLE SETTERS	14.28	1.45	2.25		.20
PAINTERS:					
Brush	14.05	.84	3.00	1.00	.10
Tapers	14.30	.84	3.00	1.00	.10
Spray; Sandblaster	14.55	.84	3.00	1.00	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$13.81	$1.45	$2.70	.80	.21
PLUMBERS; Steamfitters	14.00	1.05	2.05	15%	.15
ROOFERS	13.30	1.25	1.80	.85	.15
SHEET METAL WORKERS	13.50	1.96	3.01	1.22	.44
SOFT FLOOR LAYERS	12.00	.75	1.75	.55	.29
SPRINKLER FITTERS	15.80	.95	1.40		.08
TERRAZZO WORKERS and TILE SETTERS:					
Terrazzo Base Grinder	12.77	1.45	2.25		.20
Terrazzo Floor Grinder and Finisher	11.42	1.45	2.25		.20
Terrazzo Workers and Tile Setters	14.28	1.45	2.25		.20

RIGGERS; WELDERS: Receive rate prescribed for craft performing operation to which rigging or welding is incidental

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: New year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day

b. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; plus Kamehaha Day. In order to be eligible for a Paid Holiday, employees must work the last working day before the Holiday and the first working day following the Holiday. If the employee did not work either of these two days due to illness or layoff, he shall be entitled to Holiday Pay. In case of illness, the Company may require proof of illness.

DREDGING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Hydraulic Suction Dredges; Clamshell Dredges; Boat Operators; Derrick:					
Group 1	$15.15	$1.70	$2.45	$1.00	.05
Group 2	14.64	1.70	2.45	1.00	.05
Group 3	14.09	1.70	2.45	1.00	.05
Group 4	12.43	1.70	2.45	1.00	.05
Group 5	12.43	1.70	2.45	1.00	.05
Group 6	12.43	1.70	2.45	1.00	.05
Group 7	14.90	1.70	2.45	1.00	.05
Group 8	13.98	1.70	2.45	1.00	.05
Group 9	14.60	1.70	2.45	1.00	.05
Group 10	12.43	1.70	2.45	1.00	.05

Group 1: Clamshell or Dipper Operator; Operators (Derricks, Piledrivers and Cranes)

Group 2: Mechanic or Welder; Assistant Engineer; Assistant Engineer (steam or electric)

Group 3: Deckmate; Barge Mate (Seagoing)

Group 4: Fireman

Group 5: Oiler; Deckhand (can operate Anchor Scow under direction of Deck Mate)

Group 6: Bargeman; Leveeman

Group 7: Leverman; Master Boat Operator

Group 8: Winchman (Stern Winch on Dredge)

Group 9: Boat Operator

Group 10: Boat Deckhand

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$8.61	$1.09	$1.56	.60	.08
Group 1-A	8.66	1.09	1.56	.60	.08
Group 1-B	9.01	1.09	1.56	.60	.08
Group 1-C	9.21	1.09	1.56	.60	.08
Group 1-D	9.06	1.09	1.56	.60	.08
Group 1-E	9.31	1.09	1.56	.60	.08
Group 1-F	9.36	1.09	1.56	.60	.08
Group 1-G	9.56	1.09	1.56	.60	.08
Group 2	8.86	1.09	1.56	.60	.08
Group 3	9.06	1.09	1.56	.60	.08

Group 1: All clean-up work of debris, grounds, buildings; Bridge Laborers; Construction Laborers; Dumpman; General Laborers; Limbers, Brush Loaders and Pilers

Group 1-A: Plaster Laborers

Group 1-B: Plaster Hod Carrier

Group 1-C: Plaster Mortar Mixer

Group 1-D: Mason Tender

Group 1-E: High Scaler

Group 1-F: Gunnite Operator

Group 1-G: Powderman

LABORERS (Cont'd)

Group 2: Asphalt Shovelers; Cement Dumpers; Choke-setter and Rigger (clearing work); Concrete Chipping; Driller's Tender, Chuck Tender, Outside Nipper; Guinea Chaser (Stakeman); High Pressure Nozzleman-hydraulic Monitor (over 100# pressure) excluding levee work; Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction; Sloper; All pneumatic, gas and electric tools not listed in Group 1

Group 3: Asphalt Ironers, Rakers and Hand Rollers; Barko and similar type Tampers; Buggymobile; Chainsaw, Faller, Logloader and Bucker; Concrete and Magnesite Mixer under 1/2 yard; Concrete Grinder; Concrete Pan Work; Concrete Saw (walking or hand type); Cribbers; Cut Granite Curb Setters; Form Raisers; Header Board; Mortar Mixers (block-brick-masonry); Jackhammer Operator Jackson and similar type Compactors; Lagging, Sheeting, Whaling, Bracing, Trench-jacking, Hand-guided Lagging Hammer; Magnesite and Mastic Workers (wet or dry); Mechanical Drillers not covered elsewhere; Pavement Breakers; Pipelayers, Caulkers, Bander; Pipewrappers, Kettlemen, Potmen and men applying asphalt, Lay-Kold, Creosote and similar type materials; Post Hole Diggers (hand held-gas, air and electric); Riprap, Stonepaver and Rockslinger, including placing of sacked concrete (wet or dry); Rotary Scarifier; Roto-tiller; Sandblasters; Tank Cleaners; Tree Climbers; Vibra-screed (Bull Float in connection with Laborers' work); Vibrator; Burning, welding, signaling and rigging in connection with Laborers' work; Concrete Pump Machine; Joy Drill Model TWM-2A, Gardner Denver DH-143 and similar type drills; Tract Drillers, Diamond, Core and Wagon Drillers; Davis Trencher T-66 or similar types; Concrete Laborers (wet or dry), including Bucket Tender for concrete

LANDSCAPE and IRRIGATION LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$7.75	$1.09	.80	.60	
Group 2	7.25	1.09	.80	.60	
Group 3	5.50	1.09	.80	.60	

Group 1: Install all Valves, Vacuum Breakers, Cooper; Galvanized, P.V.C., make tie-in to all main lines; Layout and installation of low voltage electrical lines; Install Heads, Risers, Valve Boxes; Install drinking fountains and all other portable water systems and tie-ins to main lines; Installing hydraulic or electrical Controller, make pressure test; All soldering with Torch or Soldering Iron; Shoot Grader Elevations; Check all plants and shrubs for proper size, caliber and condition; Rock and stone Setter; Concrete Chipping; Choke Setting, Signalling and Rigging for equipment Operators on job site; Concrete Laborers (wet and dry) including Bucket Tender for concrete; Vibrator, Concrete Grinder, Saw Cutter (hand or walking type), Concrete Pump Machine Operator; Concrete Mixer under 1/2 yard; Handheld gas, air and electric tools (i.e., Jackhammer, Buster, Mud Gun, Jumping Jack, Jackson and similar Compactor, etc.); Chain Saw Tree Trimmers, Tree Climbers; Riding Trencher, Davis Trencher T-66 or similar type Fork Lift; Operation of Flatbed Truck up to and including 2½ tons; Hydro-mulching Machine Operator; Sit-down Mower; Operation of Hop-toe, Backhoe; John Deere or Case Light Dozer and similar types; Bantam or Grove 18 ton and under Cranes and similar types; Light Loaders or Rollers; Trucks requiring type seven and P.U.C. licenses and similar type sit-down driven machines not covered in Group 2

Group 2: Planting of trees, shrubs, ground covers, sprigging, hand-seeding, fertilizing, chemical spraying, raking, grubbing, guy-wiring, staking, propping, supporting trees, hand excavation (pick and shovel), hand rolling or tamping; Handheld gas, air or electric weed-eater; Cleaning and gluing pipe and fittings; Adjust Heads and Risers, staking and clamping Risers; Hand watering, watering by sprinkler system; Weeding, trimming and pruning

Group 3: Horticultural related work; Gardening and Yardman work; Maintenance of trees, shrubs, ground covers, and lawns; Fertilizing, chemical spraying, raking, guywiring, staking, propping, supporting trees; Cleaning and gluing pipe and fittings; Adjust Heads and Risers, staking and clamping Risers; Hand watering, watering by sprinkler system, weeding, trimming and prunning

POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$12.15	$1.70	$2.45	$1.00	.05
Group 2	12.26	1.70	2.45	1.00	.05
Group 3	12.43	1.70	2.45	1.00	.05
Group 4	12.70	1.70	2.45	1.00	.05
Group 5	13.01	1.70	2.45	1.00	.05
Group 6	13.66	1.70	2.45	1.00	.05
Group 7	13.98	1.70	2.45	1.00	.05
Group 8	14.09	1.70	2.45	1.00	.05
Group 9	14.20	1.70	2.45	1.00	.05
Group 9-A	14.43	1.70	2.45	1.00	.05
Group 10	14.49	1.70	2.45	1.00	.05
Group 10-A	14.64	1.70	2.45	1.00	.05
Group 11	14.79	1.70	2.45	1.00	.05
Group 12	15.15	1.70	2.45	1.00	.05
HELICOPTER WORK:					
Pilot of Helicopter	15.62	1.70	2.45	.95	.05
Copilot of Helicopter	15.45	1.70	2.45	.95	.05
Airborne Hoist Operator for helicopter	15.31	1.70	2.45	.95	.05
DIVER (Aqua Lung)	16.76	1.70	2.45	.95	.05
ASPHALT PAVING GROUP:					
Asphalt Raker	12.70	1.70	2.40	a	
Asphalt Spreader Operator	13.98	1.70	2.40	a	
Roller Operator:					
Over 5 tons	13.66	1.70	2.40	a	
5 tons and under	12.43	1.70	2.40	a	
Screed Man	13.01	1.70	2.40	a	
Hand Roller	12.20	1.70	2.40	a	

FOOTNOTE:

a. Employee who has completed two to five years' service shall receive a vacation of one week with pay; each additional year an additional one day vacation with pay; ten or more years, a vacation for two weeks each year; for each year of completed service thereafter to and including fifteen years' service, an addition of one day vacation with pay; fifteen or more years of service, a vacation of three weeks each year with pay.

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Partsman (heavy duty repair shop parts room when needed); Repairman Tender

Group 2: Compressor, electrically, diesel or gas powered etc.; Hydraulic Monitor; Material Loader and/or Conveyor Operator (handling building material); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screeds); Tar Pot Fireman (power agitated)

Group 3: Oiler; Fireman; Switchman; Brakeman; Deckhand; Tar Pot Fireman; Box Operator (bunker); Locomotive (up to and including 30 tons); Roller (5 tons and under); Screedman (except asphalt concrete paving); Self-propelled, automatically applied concrete Curing Machine (on streets, highways, airports and canals); Tugger Hoist, single drum

Group 4: Boom Truck or Dual Purpose "A" Frame Truck; Dinky Operator; Fork Lift or Lumber Stacker (construction job site); Material Hoist (1 drum); Straddle Truck; Ross Carrier and similar (job site)

Group 5: Agri-Cat (mini-cat); Concrete Mixer (up to 2 yards); Concrete Pumps or Pumpcrete Guns; Generators, gasoline or diesel driven (100 K.W.); Lubrication and Service Engineer (mobile and grease rack); Towermobile; Welding Machine (gasoline diesel)

Group 6: Combination Loader and Backhoe including Hopto (up to and including 1/2 yard); Concrete Batch Plants (wet or dry); Concrete Saws and/or Grinder (self-propelled unit on streets, highways, airports, and canals); Drilling Machinery not to apply to Waterliners, Wagon Drills or Jackhammers); Highline Cableway Signalman; Loader (up to and including 2½ cu. yds.); Lull High Lift; Maginnis Internal Full Slab Vibrator (on airports, highways, canals, and warehouses); Mechanical Finishers (concrete) (large Clary, Johnson Bidwell Bridge Deck or similar types); Mobile Crane Driver; Pavement Breakers; Portable Crushers; Power Jumbo Operator (setting slip forms, etc. in tunnels); Rollers (over 5 tons); Self-propelled Compactor (single engine); Slip Form Pumps (power driven hydraulic. electric, air, gas, etc. lifting device for concrete forms); Small Rubber-tired Tractors; Trenchers (up to and including 6 feet)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 7: Crusher Plant; Dual Drum Mixer; Gradesetter (mechanical or otherwise); Hoist (2 drums); Loader (over 2½ cu. yds. up to and including 5 cu. yds.); Mechanical Finishers or Spreader Machine, Asphalt (Barber Greene and similar); Mine or Shaft Hoist; Mixermobile (over 5 tons); Pavement Breaker, truck mounted, with compressor combination; Pavement Breaker with compressor combination (operates 1 or 2); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Pipe Bending Machine (pipe lines only); Self-propelled Elevating Grade Plane; Slusher Operator; Small Tractor (with boom D-6 or similar); Trencher (over 6 ft.); Water Tanker (pulled by Euclids, T-Pulls, DW-10, 20, 21 or similar)

Group 8: Boring Machine; Cast-in-place Pipe Laying Machine; Concrete Batch Plant (multiple units); Combination Loader and Hydraulic Backhoe (over 1/2 yd. up to and including 3/4 yd.); Conveyor (tunnel); Engineer, Locomotive (over 30 tons up to and including 100 tons); Finishing Machine Operator (airports and highways); Hydraulic Backhoe (over 1/2 yd. to and including 3/4 yard); Kolman Loader; Mechanic Trench Shield; Mucking Machine; No-joint Pipe Laying Machine; Portable Crushing and Screening Plants; Saurman type Dragline (under 5 yards); Self-propelled Boom type Lifting Device; Stationary Pipe Wrapping, Cleaning and Bending Machine; Surface Heater and Planer; Tunnel Badger; Tri-batch Paver

Group 9: Boom type Backfilling Machine; Combination Mixer and Compressor (gunite); Do-more Loader and Adams Elegrader; Lull Hi-lift (40' or over); Rubber-tired Earthmoving Equipment (up to 12 cu. yds.); Wheel Trencher (over 6")

Group 9-A: Dozers; Heavy Duty Repairman or Welder; Push Cats; Scrapers; Self-propelled Compactor with Dozer; Sheep Foot; Tractors; Tractors (with boom, larger than D-6 and similar)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Con'td)

Group 10: Chicago Boom; Hoist (3 drums); Koehring Skooper; Loader (over 5 yards up to and including 12 yards); Locomotive (over 100 tons)(single or multiple units); Power Blade Operator; Rubber-tired Earthmoving Equipment (up to and including 35 cu. yds,, Euclid, T-Pulls, DW-10, 20, 21 and similar); Saurman type Dragline (5 yards or over); Soil Stabilizer (P & H equal); Sub-grader (Gurries or other automatic type); Track-laying type earthmoving Machine (single engine with Tandem Scraper); Tractor, Compressor, Drill, Combination; Tractor (tandem Scraper); Tractors (D-9 or equivalent)

Group 10A: Cranes (not over 25 tons); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (up to and including 1 cu. yd.)

Group 11: Automatic Slip Form Paver (concrete or asphalt); Cranes (over 25 tons); DW-10, 20, etc. (Tandem); Earthmoving Machine (multiple propulsion power units and two or more scrapers)(up to and including 35 cu. yds. struck MRC); Highline Cableway; Lift Slab Machine; Loader (over 12 yds.); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (over 1 yd. and up to 7 yds.); Power Blade Operator (16 or over); Prestress Wire Wrapping Machine; Self-propelled Compactor (with multiple propulsion power units); Single Engine Rubber Tired Earth Moving Machine (with tandem scraper); Tandem Cats; Tower Cranes, mobile; Trencher (pulling attached shield); Universal, Liebher, Linden and similar types of tower cranes; Wheel Excavator (up to and including 750 cu. yds. per hour)

Group 12: Band Wagon (in conjunction with wheel excavator); Derricks; Drill Rigs; Multi-propulsion Earth Moving Machines (2 or more scrapers) (over 35 cu. yds. "struck" MRC); Power Shovels and Draglines (7 cu. yds. M.R.C. and over); Rubber-tired Earthmoving Equipment (over 35 cu. yds., Euclids, T-Pulls, DW-10, 20, 21 and similar); Wheel Excavator (over 750 cu. yds.)

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.73	$1.70	$2.45	.95	.05
Group 2	12.00	1.70	2.45	.95	.05
Group 3	12.31	1.70	2.45	.95	.05
Group 4	12.96	1.70	2.45	.95	.05
Group 5	13.28	1.70	2.45	.95	.05
Group 6	13.39	1.70	2.45	.95	.05

Group 1: Flatbed

Group 2: Dump, 8 yards and under; Water Truck (up to and including 2,000 gallons)

Group 3: Water Truck (over 2,000 gallons)

Group 4: Semi-trailer or Semi-dump

Group 5: Slip-in or Pup

Group 6: End Dumps, unlicensed (Euclid, Mack, Caterpillar or similar); Tractor Trailer (hauling equipment): Trucks (hooked up to trailer hauling equipment)

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: OHIO COUNTIES: BELMONT, MONROE, & NOBLE
DECISION NO.: OH82-2019 DATE: Date of Publication
Supersedes Decision No.: OH80-2071, dated August 8, 1980 in 45 FR 53053
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$6.75				
BRICKLAYERS	9.00				
CARPENTERS	8.20				
CEMENT MASONS	7.87				
DRYWALL FINISHERS/TAPERS	7.50				
DRYWALL HANGERS	7.23				
ELECTRICIANS	7.00	.50	3%	.75	.04
LABORERS	6.18				
PAINTERS	6.75				
PLUMBERS & PIPEFITTERS	7.40				
ROOFERS	6.75				
SHEET METAL WORKERS	6.75				
SOFT FLOOR LAYERS/CARPET LAYERS	6.75				
TILE SETTERS	6.75				
TRUCK DRIVERS	6.35				
POWER EQUIPMENT OPERATORS:					
Backhoe	6.75				
Bulldozer	7.40				
Front End Loader	7.38				
Grader	6.75				
Roller	6.75				

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: Oregon COUNTIES: Statewide
DECISION NUMBER: OR82-5100 DATE: Date of Publication
Supersedes Decision No. OR81-5127 dated July 6, 1981, in 46 FR 35019
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects and Dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$20.48	.	$ 1.49		.14
BOILERMAKERS	18.01	1.30	1.25	1.00	.04
BRICKLAYERS; Stonemasons:*					
Area 1	17.11	1.10	1.50		.25
Area 2	17.13	1.00	1.15		.12
CARPENTERS:					
Acoustical and Drywall Applicator; Automatic Nailing Machine; Carpenters; Form Strippers; Manhole Builders	15.12	1.00	1.30	.65	.10
Floor Layers and Finishers; Stationary Power Saw Operators	15.27	1.00	1.30	.65	.10
Millwrights and Machine Erectors	15.37	1.00	1.30	.65	.10
Certified Welders	15.52	1.00	1.30	.65	.10
Piledrivermen; Bridge, dock and wharf builders	15.22	1.00	1.30	.65	.10
Boom Men	15.32	1.00	1.30	.65	.10
CEMENT MASONS:					
Cement Masons	14.42	1.10	1.45	1.00	.20
Composition Workers; Power Machinery Operator	14.68	1.10	1.45	1.00	.20
ELECTRICIANS:*					
Area 1:					
Electricians	14.55	1.00	3%+1.00		1%
Cable Splicers	15.94	1.00	3%+1.00		1%
Area 2:					
Electricians	19.82	.95	3%+1.30		.10
Lead Cable Splicers	20.81	.95	3%+1.30		.10
Area 3:					
Electricians	19.05	1.25	3%+3.00		.10
Cable Splicers	20.95	1.25	3%+3.00		.10
Area 4:					
Electricians	22.00	1.25	3%+1.00		.17
Lead Cable Splicers	24.20	1.25	3%+1.00		.17

*See AREA Descriptions - Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:* (Cont'd)					
Area 5:					
Electricians	$20.80	$1.25	3%+2.25		.13
Cable Splicers	21.60	1.25	3%+2.25		.13
Area 6:					
Electricians	18.72	1.25	3%+2.00		.17
Cable Splicers	20.59	1.25	3%+2.00		.17
ELEVATOR CONSTRUCTION:					
Mechanics	19.82	1.345	1.085	a	.035
Helpers	70% JR	1.345	1.085	a	.035
Probationary Helpers	50% JR				
GLAZIERS	16.24	.81	1.00		.03
IRONWORKERS:					
Structural; Reinforcing; Ornamental; Riggers; Fence Erectors; Signal Men	17.04	1.00	2.15		.15
LATHERS:*					
Area 1	15.87	1.10	2.00		.06
MARBLE SETTERS:*					
Area 1	17.11	1.10	1.50		.25
MASON TENDERS:					
(including tenders of plasterers, bricklayers, tile setters, marble setters and terrazzo worker; Topping for cement finishers and mortar mixer)	14.22	1.10	1.40		.10
PAINTERS:*					
Area 1:					
Painters and Tapers	12.25	.78	.60		.03
Area 2:					
Brush	13.73	1.05	1.25	.60	.09
Spray	14.28	1.05	1.25	.60	.09
Bridges, High work over 50' (brush)	14.63	1.05	1.25	.60	.09
Bridges, High work over 50' (spray)	15.18	1.05	1.25	.60	.09
Drywall Tapers	15.48	1.05	1.00		.06

*See AREA Descriptions - Page 3

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River; Malheur County (north half); Marion, Morrow, Multnomah, Polk, Sherman, and Tillamook Counties; Umatilla, Union, Wallowa, and Wasco Counties (north of the City of Maupin); Washington and Yamhill Counties
Area 2: Benton, Crook, Coos, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, and Linn Counties; Malheur County (south half); Wasco County (including the City of Maupin and south thereof); Wheeler County

ELECTRICIANS:
Area 1: Malheur County
Area 2: Baker, Gilliam, Grant, Morrow, Umatilla, Union, Wallowa, and Wheeler Counties
Area 3: Coos, Curry, and Lincoln Counties; Douglas and Lane Counties (those portions lying west of a line north and south from the NW corner of Coos County to the SE corner of Lincoln County)
Area 4: Benton, Crook, Deschutes, and Jefferson Counties; Lane County (eastern portion); Linn, Marion, and Polk Counties; Yamhill County (south half)
Area 5: Clackamas, Clatsop, Columbia, Hood River, Multnomah, Sherman, Tillamook, Wasco, and Washington Counties; Yamhill County (north half)
Area 6: Harney, Jackson, Josephine, Klamath, and Lake Counties; Douglas County (that portion lying east of a line running north and south from the NE corner of Coos County to the SE corner of Lincoln County)

LATHERS:
Area 1: Clackamas, Clatsop, Columbia, Gilliam, Harney, Hood River, Morrow, Multnomah, Sherman, and Yamhill Counties

MARBLE SETTERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River Counties; Malheur County (north half); Multnomah, Morrow, Sherman, and Tillamook Counties; Union, Umatilla, and Wallowa Counties; Wasco County (north of the City of Maupin); Washington County; Yamhill County (north half)

PAINTERS:
Area 1: Malheur County
Area 2: Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:*					
Area 1	$15.23	$1.15	$ 2.00		.01
Area 2	15.07	1.15	2.00		.06
PLUMBERS:*					
Area 1	14.67	1.24	2.40		.10
Area 2	18.18	1.37	1.95	2.50	.16
Area 3	19.89	1.09	1.65	1.75	.12
Area 4	20.08	1.55	1.85		.20
Area 5	18.24	1.00	1.85		.10
Area 6	19.58	1.54	2.40		.21
Area 7	19.94	1.25	1.80		.07
Area 8	16.51	1.00	1.80	1.20	.05
ROOFERS:*					
Area 1:					
Roofers	16.85	.80	1.40		.10
Handling of irritating material (coal tar or epoxy)	17.10	.80	1.40		.10
Handling of irritating material (coal tar or epoxy) in confined area	17.35	.80	1.40		.10
Area 2:					
Roofers	14.75	.96	.50		
Spray and/or application of irritating materials in a confined area	15.75	.96	.50		
Area 3	13.80	.95	.45		.10
Area 4	14.51	.95	1.65		.10
SHEET METAL WORKERS:*					
Area 1	17.95	3%+1.08	1.93	1.00	.12
Area 2	15.61	.83	.96		.16
Area 3	18.26	3%+.83	1.70		.20
Area 4	15.705	.73	1.28		.10
SOFT FLOOR LAYERS:*					
Area 1	13.74	.85	1.15	b	.13
Area 2	12.37	.69	.50		
SPRINKLER FITTERS	16.44	.95	1.40		.08

*See AREA Descriptions - Page 5.

AREA DESCRIPTIONS

PLASTERERS:
Area 1: Benton, Coos, Crook, Curry, Douglas, Deschutes, Harney, and Jefferson Counties; Klamath County (northern one-third); Lane County; Lincoln, Linn, Wasco, and Wheeler Counties (south half)
Area 2: Remaining Counties

PLUMBERS:
Area 1: Baker County; Harney (except NW portion); Malheur County
Area 2: Grant County (except SW corner); Morrow, Umatilla, Wallowa, and Union Counties
Area 3: Benton, Lincoln, and Linn Counties (north half); Marion and Polk Counties; Tillamook and Yamhill Counties (south half)
Area 4: Clackamas, Clatsop, Columbia, Gilliam, Hood River, Jefferson, Multnomah, Sherman, Wasco, Wheeler, and Washington Counties; Tillamook and Yamhill Counties (north half)
Area 5: Coos and Curry Counties; Douglas County (West Coast portion); Lane County (including the City of Florence)
Area 6: Benton County (south half); Crook and Deschutes Counties; Douglas County (except Coast portion); Grant County (SW corner); Harney County (NW portion); Jefferson County (south half); Klamath and Lake Counties (northern portion); Lane County (except the City of Florence); Lincoln and Linn Counties (south half)
Area 7: Remainder of Klamath and Lake Counties
Area 8: Jackson and Josephine Counties

ROOFERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Grant, Gillian, Hood River, Morrow, Multnomah, Sherman, Tillamook, Wasco, Washington, and Wheeler Counties
Area 2: Benton, Coos, Crook, Curry, Deschutes, Douglas, Harney, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Marion, Polk, and Yamhill Counties
Area 3: Malheur County
Area 4: Umatilla, Union, and Wallowa Counties

SHEET METAL WORKERS:
Area 1: Benton, Clackamas, Clatsop, Columbia, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Lincoln, Linn, Marion, Multnomah, Polk, Sherman, Tillamook, Wasco, Washington, Wheeler, and Yamhill Counties
Area 2: Baker and Malheur Counties
Area 3: Morrow, Umatilla, Union, and Wallowa Counties
Area 4: Coos, Curry, Douglas, Klamath, Lake, Lane, and Josephine Counties

SOFT FLOOR LAYERS:
Area 1: All Counties except Malheur County
Area 2: Malheur County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS:*					
Area 1	$16.38	$1.00	$ 1.45		.35
Area 2	15.43	1.10	.95		.10
TILE and TERRAZZO HELPERS:*					
Area 1	14.80	1.00	.55		
*See AREA Descriptions - below					

WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding and rigging are incidental.

FOOTNOTES:
a. Employer credits 8% of basic hourly rate for employees with more than 5 years' service; 6% basic hourly rate for 6 months' to 5 years' service to Vacation Plan. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day
b. 4% of all gross wages to be placed to the credit of employees with less than one year's service. 6% of all gross wages to be placed to the credit of employees with more than one year of service. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day

AREA DESCRIPTIONS

TILE SETTERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River Counties, Malheur County (north half); Morrow, Multnomah, Sherman, Tillamook, Umatilla, Union, and Wallow Counties; Wasco County (north of Maupin); Washington County; Yamhill County (north half)
Area 2: Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, and Linn Counties; Malheur County (south half); Wasco County (Maupin and south thereof); Wheeler County (south half)

TILE and TERRAZZO HELPERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River Counties; Malheur County (north half); Marrow, Multnomah, Sherman, Tillamook, Umatilla, Union, and Wallow Counties; Wasco County (north of Maupin); Washington County; Yamhill County (north half)

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LINE CONSTRUCTION (AREA 1)
(All Counties Except Malheur)

	BASE ZONE	ZONE 1	ZONE 2	ZONE 3	ZONE 4
Group 1: Cable Splicer, Leadman Pole Sprayer	$19.30	$21.30	$22.05	$22.80	$24.05
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	17.44	19.44	20.19	20.94	22.19
Group 3: Tree Trimmer	15.74	--	--	--	--
Group 4: Line Equipment Man	15.02	17.02	17.77	18.52	19.77
Group 5: Head Groundman Powderman, Jackhammer Man	13.13	15.13	15.88	16.63	17.88
Group 6: Head Groundman (Chipper)	13.13	--	--	--	--
Group 7: Groundman	12.34	14.34	15.09	15.84	17.09

FRINGE BENEFITS PAYMENTS:	Groups 1 to 3	Groups 4 to 7
Health and Welfare	$.45	$.45
Pension	3%+2.00	3%+1.30
Vacation	.10	.10
Apprenticeship Training	1/2%	1/2%

ZONE DESCRIPTIONS:

*BASE ZONE	0 to 3 miles radius from the geographical center of the Cities listed below
ZONE 1	3 to 20 miles radius
ZONE 2	20 to 35 miles radius
ZONE 3	35 to 50 miles radius
ZONE 4	Over 50 miles radius

Spokane	Ellensburg	Astoria	Medford
Tacoma	Ephrate	Baker	Portland
Walla Walla	Everett	Burns	Pendleton
Wenatchee	Kennewick	Bend	Salem
Yakima	Longview	Eugene	Roseburg
Wilbur	Olympia	Seattle	Lakeview
Klamath Falls	Bellingham	Umatilla	Sand Point
Corvallis	Coeur d'Alene	Kellog	Lewiston
Orofino	The Dalles		

*BASE ZONE Rate is paid when working out of employer's permanent Shop.

LINE CONSTRUCTION: (Cont'd) Malheur County:(AREA 2)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Cable Splicer	$15.92	.45	3%+.75		1%
Journeyman Lineman	14.42	.45	3%+.75		1%
Line Equipment Mechanic (right of way)	13.63	.45	3%+.75		1%
Line Equipment Mechanic (base shop)	12.73	.45	3%+.75		1%
Line Equipment Serviceman	12.73	.45	3%+.75		1%
Line Equipment Operator	12.95	.45	3%+.75		1%
Groundman	10.58	.45	3%+.75		1%
DREDGING:					
Leverman:					
Dipper	16.00	1.30	1.47	1.00	.10
Hydraulic	16.67	1.30	1.47	1.00	.10
Assistant Engineer (including Watch Engineer, Welder, Mechanic and Machinist); Mate	15.50	1.30	1.47	1.00	.10
Tenderman (Boatman, attending Dredge Plant); Fireman	15.11	1.30	1.47	1.00	.10
Assistant Mate (Deckhand); Oiler	14.78	1.30	1.47	1.00	.10
TIMBER SALES ROADS:					
Operating Engineer	11.71	1.30	1.47	.50	.10
Operating Engineer Assistant (Oiler)	10.65	1.30	1.47	.50	.10
Teamster	11.49	1.18	1.26		.08
Laborer	9.90	1.40	1.50	1.00	.10
Power Saw, Driller, Powderman	10.67	1.40	1.50	1.00	.10

LABORERS*

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$11.97	$12.57	$13.02	$13.52	$14.47	$15.22
2	12.32	12.92	13.37	13.87	14.82	15.57
3	12.62	13.22	13.67	14.17	15.12	15.87
4	12.87	13.47	13.92	14.42	15.37	16.12

FRINGE BENEFITS:

Health and Welfare	$ 1.40
Pension	1.50
Vacation	1.00
Apprenticeship Tr.	.10

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

LABORERS

Group 1: Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Broomers; Brush Burners and Cutters; Car and Truck Loaders; Carpenter Tender; Change-house Man or Dry Shack Man; Choke Setter; Clean-up Laborers; Concrete Laborers; Culvert hand labor; Curing, concrete; Demolition, wrecking, and moving Laborers; Driller Tenders; Dumpers, road oiling crew; Dumpmen (for grading crew); Elevator Feeders; Fence Builder (including Guard Rail, Median Rail, Reference Post, Right-of-way Marker); Fine Graders; Form Strippers (not swinging stages); General Laborers; Landscaping or Planting Laborers; Leverman or Aggregate Spreader (Flaherty and Loading Spotters and similar types); Material Yard Man (including electrical); Powderman Tender; Pittsburgh Chipper Operator or similar types; Ribbon Setters (including Steel Forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipman; Slopers; Spraymen; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bullgang (above ground); Weightman, Crusher (aggregate when used); Railroad Track Laborers

Group 2: Applicator (including Pot Tender for same), applying protective material by hand or nozzle on utility lines or storage tanks on project; Brush Cutters (power saw); Burners; Choker Splicer; Clary Power Spreader and similar types; Clean-up Nozzleman, Green Cutter (concrete, rock, etc.); Concrete Power Buggyman; Crusher Feeder; Demolition and wrecking Charred materials; Grade Checker; Granite Nozzleman Tender; Gunite or Sand Blasting Pot Tender; Handlers or Mixers of all materials of an irritating nature (including cement and lime); Power Tool Operators, includes but not limited to: Dry Pack Machine; Jackhammer; Chipping Guns; Paving Breakers; Vibrators (less than 4" in diameter); Post Hole Digger, air, gas or electric; Vibrating Screed; Tampers; Sand Blasting (wet); Stake-setter; Tunnel - Muckers, Brakemen, Concrete Crew, Bull Gang (underground)

Group 3: Asphalt Rakers; Bit Grinder; Drill Doctor; Drill Operators, Air Tracks, Cat Drills, Wagon Drills, Rubber-mounted Drills, and other similar types; Concrete Saw Operator; Gunite Nozzleman; High Scalers, Strippers and Drillers (covers work in swinging stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down, or sloping and stripping); Laser Beam (pipe laying)(applicable when employee assigned to move, set up, align Laser Beam); Manhole Builder; Powdermen; Power Saw Operators (bucking and falling); Pumpcrete Nozzlemen; Sand Blasting (dry); Sewer Pipe Layers; Sewer Timberman; Track Liners, Anchor Machines, Ballast Regulators, Multiple Tampers, Power Jacks; Tugger Operator; Tunnel - Chuck Tenders, Nippers, and Timbermen; Vibrators (4" and larger); Water Blaster; Welder

Group 4 Laser Beam (tunnel) - applicable when employee assigned to move, set up, align Laser Beam; Tunnel Miners; Tunnel Powderman

POWER EQUIPMENT OPERATORS*

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$14.15	$14.75	$15.20	$15.70	$16.65	$17.40
2	14.32	14.92	15.37	15.87	16.82	17.57
3	14.46	15.06	15.51	16.01	16.96	17.71
4	14.65	15.25	15.70	16.20	17.15	17.90
5	14.68	15.28	15.73	16.23	17.18	17.93
6	14.78	15.38	15.83	16.33	17.28	18.03
7	14.85	15.45	15.90	16.40	17.35	18.10
8	14.97	15.57	16.02	16.52	17.47	18.22
9	15.05	15.65	16.10	16.60	17.55	18.30
10	15.13	15.73	16.18	16.68	17.63	18.38
11	15.15	15.75	16.20	16.70	17.65	18.40
12	15.23	15.83	16.28	16.78	17.73	18.48
13	15.33	15.93	16.38	16.88	17.83	18.58
14	15.52	16.12	16.57	17.07	18.02	18.77
15	15.72	16.32	16.77	17.27	18.22	18.97
16	15.95	16.55	17.00	17.50	18.45	19.20
17	16.13	16.73	17.18	17.68	18.63	19.38
18	16.35	16.95	17.40	17.90	18.85	19.60
19	16.52	17.12	17.57	18.07	19.02	19.77

FRINGE BENEFITS:

Health and Welfare	$1.30
Pension	1.47
Vacation	1.00
Apprenticeship Training	.10

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications.

POWER EQUIPMENT OPERATORS

Group 1: Oiler, including Plant, Crane, Crusher, Guardrail equipment, and Trenching Machine; Assistant Conveyor Operator; Crusher Feederman; Deckhand; Self-propelled Scaffolding Operator; Guardrail Punch Oiler; Pump Operator, under 4"; Brakeman; Switchman; Parts Man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler - Driver, 25 ton capacity or over; Crane Fireman (all equipment except floating); A-Frame Truck Operator, single drum; Tugger or Coffin type Hoist Operator; Driller Tender; Auger; Oiler; Boatman; Fork Lift or Lumber Stacker Operator (on job site); Oiler, combination Guardrail Machines; Temporary Heating Plant Operator; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Tender; Welder's Tender; Helicopter Radioman (ground); Roller Operator, grading of base rock (not asphalt)

Group 3: Asphalt Plant Fireman; Pugmill Operator (any type); Truck mounted Asphalt Spreader, with Screed; Compressor Operator (any power), under 1,250 cu. ft. total capacity; Conveyor Operator; Mixer Box Operator (C.T.B., Dry Batch, etc.); Cement Hog; Concrete Saw; Concrete Curing Machine (riding type); Wire Mat or Brooming Machine; Ross Carrier Operator (on job site); Bucket Elevator Loader, Barber Greene and similar types; Hydraulic Pipe Press; Pump Operator (any power), 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy, phones, etc; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pulp or seed; Broom Operator, self-propelled (on job site); Air Filtration Equipment; Welding Machine Operator

Group 4: Screed Operator; Compactor, including Vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination Mixer and Compressor, Gunnite Work; Concrete Mixer Operator, single drum, under five bag capacity; Helicopter Hoist Operator; Floating Equipment Fireman; Lull Hi-lift Operator or similar type; Fork Lift, over 5 ton; Service Oiler (Greaser); Hydra Hammer or similar types; Pavement Breaker; Pump Operator, more than 5 (any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion Machine; Wagner Pactor or similar type (without blade); Concrete Batch Plant Quality Control Operator; Power Jumbo, Setting Slip Forms, etc. in tunnels; Slip Form Pumps, Power driven Hydraulic Lifting Device for concrete forms; Hoist, single drum; Elevator Operator; Pulva-mixer or similar types; Chip Spreading Machine Operator; Lime Spreading (on job site); Sweeper (Wayne type) Self-propelled (on job site); Tractor, rubber-tired 50 H.P. flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 2½ cu. yds. and under; Rock Spreaders, self-propelled

Group 7: Roller (any asphalt mix); Beltcrete; Pumpcrete Operator (any type); Fuller-Kenyon and similar; Concrete Pump; Grouting machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame Truck, double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without Front End attachments 2½ cu. yds. and under (Ford, John Deer, Case type); Elevating Grader, Tractor towed requiring Operator or Grader; Pot Rammer; Ballast Regulator; Ballast Tamper, Multiple-purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over

Group 8: Diesel-electric Engineer, Plant, Crusher, Generator, Floating; Batch Plant and/or wet mix, one and two drum; Generator Operator; Belt Loader, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type lifting device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yds.; Loader, Front End and Overhead, 2½ cu. yds. and under 4 cu. yds.; Hammer Operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (Bit Grinder); H.D. Mechanic and Welder; Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. flywheel; Tractor with boom attachment; Trench Machine, maximum digging capacity over 3 ft. depth; Asphalt Plant Operator

Group 10: Bulldozer, twin engine (TC 12 and similar); Cable Plow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Combination H.D. Mechanic - Welder, with dispatcher and/or when required to do both; Rubber-tired Dozers and Pushers (Michigan, Cat, Hough type); Driller - Percussion, Diamond, Core, Cable, Rotary and similar type

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel; Dragline; Clamshell, Hoe, etc., under 1 cu. yd.; Grade-alls, under 1 cu. yd.; Mucking Machine (tunnel)

POWER EQUIPMENT OPERATORS (Cont'd)

Group 12: Blade Operator; Batch Plant and/or Wet Mix, 3 units or more; Reinforced Tank Banding Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledriver (not crane type); Rubber-tired Scraper, single and twin engine; Single Scraper, with Push-pull attachments, self-loader; Paddle Wheel, auger type; Blade mounted Spreaders, Ulrich and similar types; Shield Operator

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engine; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator 25 ton and over; Crane, over 25 ton and including 40 tons; Piledriver Operator; Floating Clamshell, etc., under 3 cu .yds.; Floating Crane (Derrick Barge), less than 30 ton; Elevating Grader operated by Tractor Operator, Sierra, Euclid, or similar; Back Filling Machine; Shovel, etc. 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator, Locomotive Crane, Gantry and Overhead

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, auger type, finish and/or 2 or more units

Group 15: Rock Hound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Autograder or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (Derrick Barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, multi-engine; Shovel, etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley, over 80 ton and including 150 ton; Floating Crane (Derrick Barge), 80 ton, but less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane, 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjunction with Wheel Excavator

Group 19: Helicopter, when used in erecting work; Floating Crane, 250 ton and over; Remote controlled earth moving equipment; Underwater equipment, remote or otherwise

TRUCK DRIVERS*

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$13.80	$14.40	$14.85	$15.35	$16.30	$17.05
2	13.85	14.45	14.90	15.40	16.35	17.10
3	13.90	14.50	14.95	15.45	16.40	17.15
4	13.95	14.55	15.00	15.50	16.45	17.20
5	14.00	14.60	15.05	15.55	16.50	17.25
6	14.10	14.70	15.15	15.65	16.60	17.35
7	14.20	14.80	15.25	15.75	16.70	17.45
8	14.30	14.90	15.35	15.85	16.80	17.55
9	14.40	15.00	15.45	15.95	16.90	17.65
10	14.57	15.17	15.62	16.12	17.07	17.82
11	14.67	15.27	15.72	16.22	17.17	17.92
12	14.77	15.37	15.82	16.32	17.27	18.02
13	14.87	15.47	15.92	16.42	17.37	18.12
14	14.97	15.57	16.02	16.52	17.47	18.22

FRINGE BENEFITS:

Health and Welfare	$1.18
Pension	1.26
Vacation	1.00
Apprenticeship Training	0.08

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: 6 cu. yds. and under; Lift Jitneys, Fork Lifts (all sizes in loading, unloading and transporting material on job site); Loader and/or Leverman on Concrete Dry Batch Plant (manually operated); Pilot Car; Solo Flat Bed and misc. Body Trucks, 0-10 tons; Truck Tender; Truck Mechanic Tender; Water Wagons (rated capacity) - up to 1,600 gallons

Group 2: "A" Frame or Hydra-lift Truck with load bearing surface; Lubrication Man, Fuel Truck Driver, Tireman, Wash Rack, Steam Cleaner or combinations; Team Drivers

Group 3: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 6 cu. yds. and including 10 cu. yds.; Slurry Truck Driver or Leverman; Transit Mix, and Wet or Dry Mix Trucks: 5 cu. yds. and under; Tireman Water Wagons (rated capacity) - 1,600 to 3,000 gallons

Group 4: Flaherty Spreader Driver or Leverman; Lowbed Equipment, Flat Bed Semi-trailer, Truck and Trailers or doubles transporting equipment or wet or dry materials; Lumber Carrier Driver - Stadddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Water Wagons (rated capacity) - 3,000 to 5,000 gallons

Group 5: Dumpsters or similar equipment, all sizes; Transit Mix and Wet or Dry Trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 10 cu. yds. including 20 cu. yds.; Transit Mix and Wet or Dry Mix Truck, over 7 cu. yds. including 9 cu. yds.; Truck Mechanic - Welder - Body Repairman; Water Wagons (rated capacity) -5,000 to 7,000 gallons

Group 7: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains of combinations thereof: over 20 cu. yds. including 30 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 9 cu. yds. including 11 cu. yds.; Water Wagons (rated capacity) over 7,000 gallons to 10,000 gallons

TRUCK DRIVERS (Cont'd)

Group 8: Dump Trucks, side, end and bottom dump including Semi Trucks and Trains or combinations thereof: over 30 cu. yds. including 40 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 11 cu. yds. including 15 cu. yds.; Water Wagon (rated capacity) over 10,000 gallons to 15,000 gallons

Group 9: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: Over 40 cu. yds. including 50 cu yds.; Transit Mix and Wet or Dry Mix Trucks, over 13 cu. yds. including 15 cu. yds.

Group 10: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 50 cu. yds. including 60 cu. yds.

Group 11: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trians or combinations thereof: over 60 cu. yds. including 70 cu. yds.

Group 12: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 70 cu. yds. including 80 cu. yds.

Group 13: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 80 cu. yds. including 90 cu. yds.

Group 14: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 90 cu. yds. including 100 cu. yds.

Drivers and Tenders (handling Sacked cement - add $0.15 per hour)

Winch Truck - takes classification of Truck on which Winch is mounted.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses 29 CFR, 5.5 (a)(1)(ii))

ZONE DESCRIPTIONS
for
LABORERS
POWER EQUIPMENT OPERATORS
and
TRUCK DRIVERS

CITIES:

Albany	Hood River	Newport
Astoria	Klamath Falls	Ontario
Baker	La Grande	Pendleton
Bend	Lakeview	Port Orford
Brookings	Longview	Reedsport
Burns	Madras	Roseburg
Coos Bay	Medford	The Dalles
Corvallis	McMinnville	Tillamook
Goldendale	Vancouver	
Grants Pass		

ZONE 1 - All jobs or projects located within 10 miles of the respective City Hall

ZONE 2 - More than 10 miles but less than 25 miles form the respective City Hall

ZONE 3 - More than 25 miles but less than 35 miles from the respective City Hall

ZONE 4 - More than 35 miles but less than 45 miles from the respective City Hall

ZONE 5 - More than 45 miles but less than 75 miles from the respective City Hall

ZONE 6 - More than 75 miles from the respective City Hall

Portland, Eugene and Salem ONLY

ZONE 1 - All jobs or projects located within 20 miles of the respective City Hall

ZONE 2 - More than 20 miles but less than 25 miles from the respective City Hall

ZONE 3 - More than 25 miles but less than 35 miles from the respective City Hall

ZONE 4 - More than 35 miles but less than 45 miles from the respective City Hall

ZONE 5 - More than 45 miles but less than 75 miles from the respective City Hall

ZONE 6 - More than 75 miles from the respective City Hall

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Bradford, Tioga & Union
DECISION NO.: PA82-3011
SUPERSEDES DECISION NO. PA80-3031, dated August 29, 1980, in 45 FR 59747.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (Does not include single family homes or type apartments up to and including 4 stories). Excluding Sewage and Water Treatment Plant Projects).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$13.83	.80	.90		.01
Boilermakers	16.67	1.275	1.00		.02
Bricklayers & Stonemasons	11.55	1.15	.90		.015
Carpenters	12.72	.70	.90		.05
Cement Masons	11.10				
Electricians:					
Tioga County in its entirety; Remainder of Union and Bradrord Counties	11.50	.65	3%+1.00	1.00	.02
Townships of E. Buffalo, Union & Lewisburg in Union County	13.65	.60	3%+.40		.05
Bradford County, Town of Towanda, that portion of the County West of the Susquehanna River South of Towanda and West of U. S. Highway 309, North of Towanda	12.95	.90	3%+.60	1.00	.10
Elevator Constructors	12.84	1.345	1.085	a+b	.035
Elevator Constructors Helpers	70%JR	1.345	1.085	a+b	.035
Elevator Constructors Helpers (Prob.)	50%JR				
Glaziers:					
Bradford & Tioga Counties	11.85	.75	1.20		
Union County	11.71	.70	.65		.01
Ironworkers:					
Structural, Ornamental & Reinforcing					
Union County	14.265	1.49	1.46		.045
Bradford & Tioga Counties	12.90	.85	1.30		.05
Laborers:					
General Laborers	8.35	.70	.60		
Operator of jackHammer, paving and other pneumatic electrical and mechinical tools, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same, wagon drill operator, cofferdam (below 10'), tunnel free air, handling and using cutting or burning torches in the wrecking of buildings, blasters, plasterer tenders,					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS(CONT'D)					
Mason tenders, scaffold builders and removal of power buggies	$8.50	.70	.60		
Lead Burners	10.75	.40	.25	c	.01
Lathers	12.72	.70	.90		.05
Line Construction:					
Lineman, dynamite man, heavy equipment operator	13.37	.55	3%		3/8%
Winch truck operator	9.38	.55	3%		3/8%
Groundman	8.97	.55	3%		3/8%
Millwrights	14.42	.70	.90		.05
Painters:					
Brush	10.85	.75	.60		.10
Tapers	11.51	.75	.60		.10
Hazardous	12.51	.75	.60		.10
Piledrivermen	12.97	3.13	1.40	d	.13
Plasterers:					
East of Susquehanna River in Bradford County	11.85	.75	1.20		
Tioga, Union and Remainder of Bradford County	10.69				
Plumbers & Steamfitters:					
Tioga & Union Counties and Eastern half of Bradford Co.	14.26	.94	.95		.05
Western half of Bradford Co.	13.59	.95	1.55		.10
Roofers, Composition & Kettleman	12.05	1.00	1.10		
Sheet metal workers	13.31	.80	.86		.04
Soft floor layers	10.98	.70	.90		.05
Sprinkler Fitters	15.56	.95	1.40		.08
Truck Drivers:					
Union County	8.35				
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day.

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Six paid Holidays: A through F, plus the Friday after Thanksgiving.

c. Nine Paid Holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceeding and following the holiday.

d. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day; Labor Day, Presidential Election Day, Veterans' Day and Thanksgiving Day.

"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))."

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
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%

CLASSIFICATIONS 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, 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 3-½ c.y. and over, tandem scrapers, pippin type bachoes, 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 palnt engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ 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, heaters, farm tractors, form line graders, fine grade machines, road finishing machines concrete breaking machines, rollers, seaman pulverzing mixer, power broom, seeding spreader, tireman (for power equipment) machines similar to above

GROUP 5: - Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc): 100 ft. and over

GROUP 7-A: 150 ft. and over
GROUP 7-B: 200 ft. and over

FOOTNOTES:

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.

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTIES: Chippewa, Eau Claire & Pepin

DECISION NUMBER: WI82-2015 DATE: Date of Publication

Supersedes Decision No. WI80-2014 dated April 4, 1980 in 45 FR 23285

DESCRIPTION OF WORK: Building Construction including Residential

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$16.03	.60	1.50		.15
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS & STONEMASONS	12.90	.90	.90		.05
CARPENTERS	12.27	.60	1.00		.05
Residential	7.67	.60	.50		.05
CEMENT MASONS	12.90	.90	.60		.10
ELECTRICIANS	14.91	5%	3%		½ of 1%
Residential	7.97	.68	3%		½ of 1%
ELEVATOR CONSTRUCTORS	14.77	1.345	.95	a+b	.035
Helpers	10.34	1.345	.95	a+b	.035
Probationary Helpers	7.385				
IRONWORKERS:					
Structural,Ornamental, & Reinforcing	14.80	.95	.90		.04
LABORERS:					
Laborers, Common	10.67	.65	.55		.03
Mason Tenders	10.92	.65	.55		.03
Mortar Mixer & Plaster Laborer, Air, Gas, Electric Equipment & Vibrator Operators, Kettlemen Dumpmen & Pitmen, Burner on Wrecking, Scaffold Builder & Washing Walls on Swinging Scaffold	10.82	.65	.55		.03
Jackhammer	10.97	.65	.55		.03
LATHERS	12.27	.60	1.00		.05
LINE CONSTRUCTION:					
Linemen	14.40	.45	9%		1½%
Heavy Equipment Operators	12.96	.45	9%		1½%
Light Equipment Operators	11.52	.45	9%		1½%
Heavy Groundman - Truck Drivers	10.08	.45	9%		1½%
Light Groundman - Truck Drivers	9.36	.45	9%		1½%
Groundman	7.92	.45	9%		1½%
MILLWRIGHTS & PILEDRIVERMEN	12.67	.60	1.00		.05
PAINTERS:					
Brush	12.00		.15	5%	
Structural Steel & Iron Painting	13.00		.15	5%	
Spray & Sandblaster	12.50		.15	5%	
PLUMBERS & STEAMFITTERS	13.67	.75	.85	1.70	
Residential	11.94	.75	.85	1.70	
ROOFER	13.32			3%	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	$14.79	.75	.60		.06
Residential	8.87	.75	.60		.06
TRUCK DRIVERS:					
Two Axles	11.10	d	e	.20	
Three or more Axles	11.20	d	e	.20	
POWER EQUIPMENT OPERATORS:					
GROUP I	14.12	1.35	1.00		.05
GROUP II	13.85	1.35	1.00		.05
GROUP III	13.52	1.35	1.00		.05
GROUP IV	13.41	1.35	1.00		.05
GROUP V	12.90	1.35	1.00		.05
GROUP VI	12.47	1.35	1.00		.05

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Dredge Operator & Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader & Distributor.

GROUP II - Material Hoists; Stack Hoists; Tracer or Truck Mounted Hydraulic Backhoe; Tractor Truck Mounted Hydraulic Cranes (5 tons or under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' & Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic & Welder; Bituminous Plant & Paver; Roller (Over 5 Tons); Rotary Drill & Blaster; Trencher (Wheel Type Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete & Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (14S or Over); Screw Type & Gypsum Pumps; Tractor; Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch & Under); Industrial Locomotives; Roller (Under 5 Tons) & Firemen (Pile Drivers & Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tampers-Compactors (Riding Type); Assistant Engineer; "A" Frames & Winch Trucks; Concrete Auto Breaker; Hydrohammers (Small); Brooms & Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges & Launch).

GROUP V - Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crusher & Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Air, Electric, Hydraulic Jacks (Slip Form); Prestress Machines' Bobcats; Boiler Operator(Temporary Heat); Forklift (12' and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" & Under); Winches (Small Electric); Oiler & Greaser; Rotary Drill Helper, Conveyor.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to Vacation Pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay credit for employee who has worked in business less than 5 years.
b. Holidays: A through F.
d. $21.45 per week for each employee.
e. $27.00 per week for each employee

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: WISCONSIN COUNTY: Green & Rock
DECISION NUMBER: WI82-2016 DATE: Date of Publication
Supersedes Decision No. WI80-2040 dated May 30, 1980 in 45 FR 36781
DESCRIPTION OF WORK: Building construction (excluding 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	$14.38	1.20	1.35	1.50	.12
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS & STONEMASONS	13.28	.90	.90	.25	.02
CARPENTERS & SOFT FLOOR LAYER	14.36	.60	1.00		.12
Millwrights	14.96	.60	1.00		.12
Piledrivermen	14.51	.60	1.00		.12
CEMENT MASONS	12.50	.90	1.20		
ELECTRICIANS	14.22	.58	6%	7%	½%
ELEVATOR CONSTRUCTORS:					
Southern Portion of Cos.	15.265	1.345	.95	a+b	.035
Northern Portion of Cos.	13.76	1.345	.95	a+b	.035
ELEVATOR CONSTRUCTORS' HELPERS:					
Southern Portion of Cos.	10.685	1.345	.95	a+b	.03
Northern Portion of Cos.	9.63	1.345	.95	a+b	.03
GLAZIERS:					
Northern 2/3 of Counties	14.50	.73			.03
Southern 1/3 of Counties	12.73	.47	.50	1.50	.02
IRONWORKERS (all):					
Vic. of Edgerton, Milton, Poolville & Evansville	13.11	1.30	1.00		.07
Vic.of Janesville, Shopier	15.85	1.30	.375		.10
LABORERS:					
General	11.17	.65	.55		.03
Plaster tenders	11.42	.65	.55		.03
Mortar Mixer, Jackhammer & Air Hammer Operator	11.42	.65	.55		.03
LINE CONSTRUCTION:					
Linemen	14.40	.45	9%		½%
Heavy Equipment Operator	12.96	.45	9%		½%
Light Equipment Operator	11.52	.45	9%		½%
Heavy Groundman - Truck Driver	10.08	.45	9%		½%
Light Groundman - Truck Driver	9.36	.45	9%		½%
Groundman	7.92	.45	9%		½%
PAINTERS:					
Brush	12.10	1.05	.60		.08
Structural Steel (Brush)	12.10	1.05	.60		.08
Spray	13.10	1.05	.60		.08
Swing Stage	12.35	1.05	.60		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$12.35	.90	1.20		
PLUMBERS & STEAMFITTERS	16.85	.90	1.15		.06
ROOFERS	16.17	.90			.03
SHEET METAL WORKERS	16.20	1.00	.96		.06
TILE SETTERS	13.28	.90	.90	.25	.07
WELDERS-Receive rate prescribed for craft performing operation to which welding is incidental					
POWER EQUIPMENT OPERATORS:					
GROUP I	14.12	1.35	1.00		.05
GROUP II	13.85	1.35	1.00		.05
GROUP III	13.52	1.35	1.00		.05
GROUP IV	13.41	1.35	1.00		.05
GROUP V	12.90	1.35	1.00		.05
GROUP VI	12.47	1.35	1.00		.05

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operators & Traveling Cranes (Bridge Type), concrete Paver (over 27E), Concrete Spreader & Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' & over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic & Welder, Bituminous Plant & Paver Operator, Roller (over 5 tons), Rotary Drill Operator & Blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete & Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, & Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well Points), Trencher (chain type having bucket 8-inch & under), Industrial Locomotives, Roller (under 5 tons) & Firemen (pile drivers & Derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame & Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms & Sweeper, Hoists (tuggers) Stump Chipper (large), Boats, Safety, Work, Barges & Launch)

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers & Screening Plants, Firemen (asphalt plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150KW Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" & under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Six Paid Holidays: A through F

b. Employer contributes 8% of regular hourly rate for vacation pay credit for employee who has worked in business more than 5 years and 6% for employee who has worked in the business less than 5 years

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: Wyoming

COUNTIES: Converse, Goshen, Laramie, Natrona, Niobrara and Platte

DECISION NUMBER: WY82-5106

DATE: Date of Publication

Supersedes Decision No. WY81-5108 dated April 3, 1981, in 46 FR 20477

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION					
ASBESTOS WORKERS	$15.39	.75	$ 1.49		
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS; Stonemasons:*					
Area 1	13.64	.70	.50		.07
Area 2	12.90	.60	.50		.15
CARPENTERS:					
Carpenters	12.75	.85	.75	.75	.22
Piledrivermen	13.00	.85	.75	.75	.22
CEMENT MASONS:					
Cement Masons	13.15	.60			.15
Working on Swinging Stage or temporary platform over 20 ft. high	13.65	.60			.15
Composition material, epoxy	13.65	.60			.15
ELECTRICIANS:*					
Area 1:					
Electricians	16.00	.75	3%+.50		3/4of 1%
Cable Splicers	16.25	.75	3%+.50		3/4of 1%
Area 2:					
Contracts $250,000 and under:					
Electricians	14.75	1.00	3%+.75		3/4of 1%
Contracts over $250,000:					
Electricians	15.70	.75	3%+.75		3/4of 1%
ELEVATOR CONSTRUCTORS	14.88	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER	10.42	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER (Prob.)	7.44				
IRONWORKERS:					
Structural; Ornamental; Reinforcing	14.15	1.05	1.60		.15
MARBLE, TILE and TERRAZZO WORKERS:*					
Area 1	11.10	.45	.30		
MILLWRIGHTS	14.66	1.10	1.00		.29

*See AREA Descriptions - Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush and Roller	$13.31	.95	$1.15		.08
Spray, Swing Stage and Hazardous	13.91	.95	1.15		.08
Sandblaster (interior)	15.23	.95	1.15		.08
Paperhanger	13.91	.95	1.15		.08
Drywall Finisher	13.56	.95	1.15		.08
Finishers (machine)	13.91	.95	1.15		.08
PLUMBERS; Steamfitters:*					
Area 1	13.32	1.00	.90	1.50	.18
Area 1-A	16.32	1.00	.90	1.50	.18
Area 2:					
Zone 1	15.03	1.00	1.10	2.00+ b	.50
Zone 2	15.90	1.00	1.10	2.00+ b	.50
Zone 3	16.75	1.00	1.10	2.00+ b	.50
Zone 4	18.06	1.00	1.10	2.00+ b	.50
Zone 5	19.05	1.00	1.10	2.00+ b	.50
ROOFERS	11.44				
SHEET METAL WORKERS:*					
Area 1	14.43	.63	1.32		.23
Area 2	10.92	.51	1.10		.08
SPRINKLER FITTERS	14.57	.95	1.40		.08
WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding or rigging is incidental.					

*See AREA and ZONE Descriptions - Page 3

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day.

b. Paid Holiday: Labor Day

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Goshen, Laramie and Platte Counties
Area 2: Converse, Natrona and Niobrara Counties

ELECTRICIANS:
Area 1: Goshen, Laramie, Niobrara and Platte Counties
Area 2: Converse and Natrona Counties

MARBLE, TILE and TERRAZZO WORKERS:
Area 1: Converse, Natrona and Niobrara Counties

PLUMBERS; Steamfitters:
Area 1: Cheyenne only
Area 1A: Goshen, Platte and Laramie Counties, excluding Cheyenne

Area 2: Converse, Natrona and Niobrara Counties:

Zone 1: 10 miles radius from Post Office in Casper
Zone 2: 10 miles radius beyond Zone 1
Zone 3: 20 miles radius beyond Zone 2
Zone 4: 40 miles radius beyond Zone 3
Zone 5: Jurisdiction beyond Zone 4

SHEET METAL WORKERS:
Area 1: Converse, Natrona and Niobrara Counties
Area 2: Goshen, Laramie and Platte Counties

LABORERS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Group 1	$ 8.79	$1.00	.50	$1.00	.05
Group 2	9.03	1.00	.50	1.00	.05
Group 3	9.28	1.00	.50	1.00	.05
Group 4	9.28	1.00	.50	1.00	.05
Group 5	9.33	1.00	.50	1.00	.05
Group 6	9.18	1.00	.50	1.00	.05
Group 7	9.08	1.00	.50	1.00	.05
Group 8	8.93	1.00	.50	1.00	.05
Group 9	9.68	1.00	.50	1.00	.05

Group 1: General Laborers: All work pertaining to pre-watering, pre-irrigation, and pre-wetting); Axeman and Hand Faller; Bin Wall Installer; Bituminous Curb Builder; Burner (Cutting Torch); Car and Truck Loader; Carpenter Tender; Cement Mason Tender; Chuck Tender; Concrete Saw; Concrete Worker (wet or dry) (curing and drying); Creosote Material Handler (corrosive enamel or its equal); Dumpman; Erector and Installer (includes the installation of all fences, right of way, median fences, snow fences, etc., guard rails, section rails, reference posts, guide posts, signs and right of way markers); Form Setter (paving); Form Setter Tender (paving); Form Stripper; General Laborer; Gunnite Tender; Hand Operated Vibrator Roller; Jackhammer and Pavement Breaker; Landscaper; Landscaper Tender; Material Handler (lumber, rods, cement, concrete); Mechanical Form Cleaner; Mortar Man on Stone Riprap; Nozzleman (air and water); Operator on pnuematic, electric, gas tamper and similar mechanical tools; Pipe Setter (corrugated, culvert pipe multi-plate, sectional plate and similar type); Pipe Setter Tender (corrugated); Pipe Setter Tender (non-metallic); Pipe Wrapper; Powderman Tender; Power Saw Operator (clearing); Power type Concrete Buggy (push); Power type Concrete Buggy (ride); Riprap Man; Rodman; Sandblaster Pot Tender; Shoring and Lagging Open Ditch; Signalman, grade, concrete, etc.; Scissorman or Hopper Man; Stake Jumper for equipment; Tar and asphalt Pot Tender; Unloading and packing of steel rods and mesh (reinforcing); Vibrator - concrete; Wrecking and Demolition Crews; Heat Tender and Pilot Car Operator;

LABORERS (Cont'd)
BUILDING CONSTRUCTION (Cont'd)

Group 2: Semi-skilled Laborers: Asphalt Raker and tamper; Gunnite Nozzleman; High Scaler (using air tool from bos'n chair, swing stage life belt, or block and tackle, shall receive 20¢ per hour more than the classified rate); Sandblaster Nozzleman; Sewer Pipe Installer (non-metallic, Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker);

Group 3: Drilling - Blasting: Powderman and Blaster; Wagon Drill, Air Track, Diamond and other drills for blasting powder or grouting

Group 4: Tenders: Fork Lift Operator (masonry work); Hodcarriers; Mason Tenders; Plasterer Tenders; Scaffold Builders; Terazzzo Tenders; Tile Setter Tenders

Group 5: Tunnel - underground: Drill Doctors; Finishers; Form Setters and Movers; Jackhammer Man; Machine Man; Miners (Drillers); Piling and/or Caisson Workers; Rebar Man; Spaders; Steelman; Timberman; Tuggers

Group 6: Chuck Tender; Nipper; Top Man or Top Lander

Group 7: Brakeman; Vibrator Man

Group 8: Bull Gang Laborer; Mucker

Group 9: Shifter

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))

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Friday
March 12, 1982

Part III

Environmental Protection Agency

Hazardous Substances; National Oil and Hazardous Substances Pollution Contingency Plan; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SWH-FRL 1906-4]

Hazardous Substances; National Oil and Hazardous Substances Pollution Contingency Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) requires revision of the National Contingency Plan originally published pursuant to section 311 of the Federal Water Pollution Control Act. In compliance with section 105, this proposed revision modifies the Plan to include the new responsibilities and authorities for responding to releases into the environment of hazardous substances and other pollutants and contaminants. This revision is intended to reflect and effectuate the responsibilities and powers created by CERCLA.

DATES: Comments must be submitted on or before April 12, 1982.

ADDRESSES: Comments may be mailed to William N. Hedeman, Jr., Director, Office of Emergency and Remedial Response (WH-548), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Sylvia Lowrance, Office of Emergency and Remedial Response (WH-548), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Phone (202) 382-2235.

SUPPLEMENTARY INFORMATION:

I. INTRODUCTION

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510 ("CERCLA" or "the Act"), enacted on December 11, 1980, establishes broad Federal authority to respond to releases or threats of releases of hazardous substances, pullutants or contaminants from vessels and facilities. The government may take response action under circumstances prescribed by the Act whenever there is a release or a substantial threat of a release of a hazardous substance, or there is a release or a substantial threat of a release of other pollutants or contaminants which may present an imminent and substantial danger to public health or welfare (section 104). Depending on the nature of the release or threat of release, the government may undertake short-term cleanup actions, long-term actions consistent with permanent remedy, or both.

The Act's authorization for government response is conditioned by section 104(a)(1), which states in pertinent part:

> * * * the President is authorized to act, consistent with the national contingency plan, to remove or arrange for the removal of, and provide for remedial action relating to such hazardous substance, pollutant, or contaminant at any time (including its removal from any contaminated natural resource), or take any other response measure consistent with the national contingency plan which the President deems necessary to protect the public health or welfare or the environment, unless the President determines that such removal and remedial action will be done properly by the owner or operator of the vessel or facility from which the release or threat of release emanates, or by any other responsible party.

Section 105 of the Act requires that modifications be made to the National Contingency Plan originally mandated by section 311(c)(2) of the Clean Water Act (CWA), 33 U.S.C. 1321(c)(2). This Plan originally was prepared by the Council on Environmental Quality (CEQ) and is located at 40 CFR Part 1510. Executive Order 12316, 46 FR 42237, delegates the responsibility to amend the National Contingency Plan to the Environmental Protection Agency. As a consequence, Part 1510 is proposed to be moved from 40 CFR Chapter V to 40 CFR Chapter I and redesignated Part 300. The CEQ Plan, which remains in effect until superseded by the revisions required by CERCLA, was last revised on March 19, 1980 (45 FR 17832). Specific requirements under the CWA are detailed in Subpart A of this proposal, along with the new requirements for the Plan specified by CERCLA.

Section 105 states that the revisions shall include a section to be known as the "national hazardous substance response plan." EPA has included in the revision a new Subpart F entitled "Hazardous Substance Response." This section includes new material applicable to actions taken pursuant to CERCLA. Subparts A-D, G and H, however, also contain material that generally is applicable to responses under CERCLA, as well as the CWA. While the new Subpart F contains most materials required to be in the section entitled "national hazardous substance response plan," EPA believes that response actions pursuant to CERCLA must be taken consistent with the entire NCP and has, therefore, not designated any single section as the national hazardous substance response plan.

CERCLA requires the addition of elements to the Plan which may be construed as regulatory in nature and provides for their adoption after opportunity for public comment. EPA has not included in the Plan material which is best described as "ministerial" by nature, and which is not required by statute or Executive Order. These ministerial portions will, in part, be included as guidance in a general CERCLA operating manual of which this Plan will be one part.

The development of the proposed revised Plan was guided by an analysis of the statutory and Executive Order requirements for the Plan. Inclusion of material beyond that required by statute or Executive Order was limited to material: (1) Not available in existing publications and (2) necessary to an understanding of the Plan's philosophy, purpose and/or operations. In all cases, care was used to ensure that the Plan accurately reflects actual Agency practices.

As presented in the proposed revision, the National Contingency Plan contains the basic policies to direct the Federal response to releases or threatened releases of oil and hazardous substances. It is a document which is designed to make Federal action reasonably predictable by both the regulated community and the general public which the statutes are intended to protect. In the explanation of the individual Subparts which follow, the more extensive or apparent changes to the current Plan are noted.

Major Revisions to the Existing NCP

A. Annexes

The nine annexes in the current Plan have been eliminated in this proposal. Material from the existing annexes has been included in the body of the proposed revised Plan as appropriate.

Annex I of the existing Plan details the entities to which the Plan would be distributed. The same entities will receive the proposed Plan but the distribution list is not made part of the Plan.

Annex II of the existing Plan provides a very detailed outline of the formats for Regional and local contingency plans. The proposed revision provides in Subpart D basic requirements for those plans including a provision that those plans shall follow the format of the national Plan as closely as possible.

Annex III of the existing Plan provides a listing of the addresses and telephone numbers of regional and local EPA and Coast Guard offices and a map of the standard EPA Federal regions. Given the

wide availability of current information in this regard, Annex III is eliminated in the proposed revision.

Annex IV lists Federal statutes and international agreements relative to control of pollution by oil and hazardous substances. This information has been eliminated from the proposed revision as being unnecessary as a part of the Plan.

Annex V provides a listing of communications services available in the National Response Center. This detailed listing has been eliminated as being of little practical value, available elsewhere, and subject to change. Information on contacting the NRC is included in Subpart C.

Annex VI details sample collection procedures to be followed by the On-Scene Coordinator. EPA believes this information should more appropriately be included in the general operating manual that it is preparing to supplement the Plan. Annex VI has therefore been eliminated from the Plan and will be reestablished in this supplemental guidance.

Annex VII of the current Plan provides a detailed listing of reference documents to be maintained in the National Response Center and in each Regional Response Center. Because the list of appropriate publications will change as new publications appear, this list has been eliminated in the proposed revision and the contents of the reference libraries has been left to the National Response Team to specify on a continuing basis.

Annex VIII contains definitions of terms used in the Plan. In the proposed revision, necessary definitions have been moved to Subpart A.

Annex IX is "reserved for future use" and therefore has been eliminated in the proposed revision.

Annex X which addresses the statutory requirement for a schedule of chemicals and other additives to remove oil and hazardous substances discharges has been rewritten and is addressed in Subpart H of the revised Plan.

B. Subparts

Subparts A through D of the proposed revision deal with the same general subject matter as the corresponding subparts of the existing Plan. Subpart E, now titled "Operational Response Phases" is retitled "Operational Response Phases for Oil Removal" while a new Subpart F, "Hazardous Substance Response" has been developed to reflect the new authorities of CERCLA. Under the proposed revision, some elements of the current Subpart F are incorporated into Subpart C. Two new Subparts, G and H, are included in the proposed revision. A detailed discussion of the new subparts is included below. The following details changes made to material in the existing Plan:

1. *Subpart A.* Subpart A details the satatutory and Executive Order base on which the Plan rests. This section also sets out with appropriate statutory citations those items which the Plan is required to address and provides an explanation of abbreviations and terms used throughout the Plan. Definitions have been taken from the appropriate statute without modification wherever possible and their source cited. Other definitions are constructs of the Plan used to refer to concepts more fully defined in the Plan. Principal among these are:

Coastal Zone which is used to distinguish the areas of United States Coast Guard responsibility under the Plan from that of EPA. This distinction in no way expands or limits overall Federal jurisdiction.

Fund or Trust Fund is used as a short-hand reference to the CERCLA Hazardous Substance Response Trust Fund.

Inland Zone also serves to delineate lead agency responsibility. It includes the environment inland of the coastal zone excluding the Great Lakes and specified ports and harbors of inland rivers as specifically identified in Federal regional contingency plans.

Lead Agency is used to refer to the agency that appoints the On-Scene Coordinator.

Oil Pollution Fund is used as a short-hand reference to that Fund created by section 311(k) of the Clean Water Act.

On-Scene Coordinator is used to refer to the Federal official designated to coordinate and direct a Federal response under the Plan. The designation of the On-Scene Coordinator, his duties, responsibilities, and authority are spelled out in the Plan.

Trustee is used to refer to the Federal agencies that shall act as trustees for natural resources pursuant to section 111 of CERCLA. The role of a trustee is explained in Subpart G.

United States and State are given their customary definition.

Volunteer is given a specific meaning in the context of the Plan. As used in the Plan volunteer means an individual accepted to perform services by an agency with authority to accept volunteer services.

Subpart A as proposed in this revision also reflects the following changes in the existing Plan:

—Redrafting of the *Purpose and Objectives* section to reflect the purpose and objectives of the CERCLA. (§ 510.1 of the existing Plan).

—Redrafting of the *Authority* section to reflect the passage of CERCLA and transfer of the listing of Plan contents from this section to the *Scope* section where it is more appropraite.

—Elimination from the *Scope* section of a recitation of limited geographic jurisdiction of the Plan which was rendered obsolete by CERCLA.

Two items ((9) and (10)) of the scope section were removed from the listing in the proposed revised Plan because they are not required by statute or Executive Order. First, the Plan continues to include provision for a Scientific Support Coordinator, but has deleted specific procedures for coordinating scientific support of cleanup operations, assessment of damage after a spill, and research efforts as not required or a necessary element of the Plan. Second, EPA has left to the National Response Team the opportunity to develop a system of referral and appeal for the Regional Response Teams and On-Scene Coordinators to the National Response Team.

The section of the existing Plan on abbreviations was amended in the proposed Plan in the following respects:

—The reference to the Department of Health, Education and Welfare (DHEW) was replaced by a reference to the Department of Health and Human Services (HHS) reflecting the changed Federal organization.

—The following new abbreviations were added to reflect new language introduced as a result of CERCLA additions to the Plan:

NIOSH—National Institute for Occupational Safety and Health
OSHA—Occupational Safety and Health Administration
NSF—National Strike Force
PIAT—Public Information Assist Team

2. *Subpart B.* Subpart B assigns Federal responsibilities under the Plan to various Federal Agencies and Departments and also outlines State and local, and non-government participation in actions taken under the Plan, as required by section 311(c)(2)(A) of CWA and sections 105(4), 105(6), and 105(9) of CERCLA.

Principal Federal assignments of responsibility were made in two Executive Orders (11735 and 12316) and those delegations are incorporated in the Plan. In addition, Federal agencies which may from time to time e called upon to provide assistance in actions taken under the Plan are identified.

State and local participation in Plan activities are provided through Regional Response Teams and contracts or cooperative agreements. Finally,

guidelines are provided for participation of non-government entities in plan activities.

This subpart amends § 1510.22 *Duties of Federal Agencies* and § 1510.23 *Non-Federal Participation*, of the existing Plan. The major change is the incorporation of Executive Order delegations in the Plan and a shortening of the description of individual agency activities.

3. *Subpart C.* This Subpart explains the administrative organization of the response program, delineates the authorities and responsibilities of participants and meets the requirements of sections 311(c)(2)(B) and 311(c)(2)(E) of CWA, as well as section 105(5) of CERCLA. The proposal does not change the basic organizational scheme of the Plan, but it discusses organizational components in the context of the principal categories of activities in which they engage: Planning and Coordination (§ 300.32), Response Operations (§ 300.33), and Communications (§ 300.35).

The role, responsibilities and authorities of the On-Scene Coordinator (OSC) under CERCLA will vary somewhat from that under section 311 of the Clean Water Act. Under section 311 the OSC's responsibilities and authorities have been very broad. The NRT and EPA believe that the OSC's duties should remain the same in the current Plan during emergency actions. Broad powers are critical in emergencies since time is of the essence, and immediate response by other officials or organizations often is impracticable.

The new authorities in CERCLA, however, contemplate response in situations other than classic emergencies such as response at hazardous waste sites with chronic low level releases. More time for planning, greater coordination with other government officials, larger Fund expenditures and a greater range of expertise may be required in managing these problems. Such nonemergency response includes planned removal and remedial actions, which are discussed in Subpart F of the proposed revised Plan. The revised description of the role of the OSC in Subpart C reflects not only the traditional responsibilities of the OSC, but also the changes in OSC responsibilities required by the new CERCLA authorities.

Subpart C also describes the circumstances under which each of the two major Fund-financed response agencies, EPA and the USCG, is responsible for designating the OSC for response action. For any particular release, the Agency making this designation is characterized throughout the proposal as the "lead agency". The Plan specifies that the USCG shall provide OSCs for Federally managed responses involving oil discharges and immediate removal of hazardous substance releases into the coastal zone, and that EPA shall provide OSCs for Federally managed responses involving oil discharges and immediate removal of hazardous substance releases into or threatening the inland zone. Unless otherwise provided, EPA shall designate the OSC for all Federally managed planned removal and remedial actions regardless of location.

4. *Subpart D.* Section 311(j)(1)(B) of the CWA requires that regulations be issued, consistent with the NCP, which establish criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans. Subpart D sets forth the required contents of Federal local and Federal regional contingency plans. Annex II of the existing NCP has been substantially incorporated in this Subpart by requiring that all Federal local and Federal regional contingency plans will follow the format of the NCP. The discussion of response and support equipment from Subpart D of the existing Plan is now included in Subpart C.

5. *Subpart E.* Subpart E addresses the operational phases for responding to discharges of oil into the waters of the United States. Phase I, § 300.51, provides a system of surveillance and notice designed to insure the earliest possible notice of discharges to the appropriate State and Federal agencies as required by section 311(c)(2)(D) of the CWA.

Sections 300.52 through 300.57 set forth procedures and techniques to be employed in identifying, containing, dispersing and removing oil as required by section 311(c)(2)(F) of the CWA, including procedures for documentation of cost recovery and required content for pollution reports. Section 300.58 entitled "Funding" has been added to the existing plan to identify controls on section 311(k) Oil Pollution Fund expenditures. Subsection 300.58(h) describes the system required by section 311(c)(2)(H) of the CWA whereby the States can act to remove a discharge and be reimbursed from the Fund established under section 311(k) of the CWA for reasonable costs.

The USCG, which has primary responsibility for responding to discharges of oil in the coastal area was directly involved in the revision of Subpart E and recommended only minor changes to the current Plan. Thus, Subpart E, as published today, remains substantially similar to Subpart E of the existing Plan.

III. Major Additions to the NCP

A. Subpart F

Subpart F establishes procedures and standards for responding to releases of hazardous substances, pollutants, and contaminants through the development of seven operational phases. Like Subpart E, it is organized by operational response phases. Phase I, entitled Discovery and Notification, sets forth the means by which a release may be discovered and reported to the National Response Center (NRC). Phase II, § 300.63, provides for a preliminary assessment of a release. The assessment may be undertaken by the lead agency for the purpose of gathering pertinent information as listed and for an evaluation of the magnitude of the hazard.

Phases III, IV, V and VI address the requirement of 105(3) of CERCLA that the Plan include methods and criteria for determining the appropriate extent of removal, remedy and other measures authorized by the Act. Section 101(23) of CERCLA defines removal as those response actions that should, to the extent possible, be taken relatively quickly after discovery to protect or prevent actual or potential injury to public health, welfare or the environment. Removal actions are limited to a Fund obligation of $1 million or six months duration unless a finding is made that: (1) Continued response actions are immediately required to prevent, limit, or mitigate an emergency, (2) there is an immediate risk to public health or welfare or the environment, and (3) response will not otherwise be provided on a timely basis (section 104(c)).

The Plan divides the statutory concept of removal into two categories "immediate" removal (Phase III) and "planned" removal (Phase V). The purpose of the division is to clearly delineate those circumstances when removal actions may be taken, thereby preventing the unchecked use of Trust Fund monies for all possible removal actions which could result in depletion of the Fund and an inability to fund remedial actions. It also serves to establish the appropriate extent of response in that immediate removal actions are terminated when the criteria for taking such action no longer are met.

1. *Immediate Removal.* Phase III, § 300.64, of the Plan provides that immediate removal actions may be taken when the OSC determines that prompt response may prevent immediate and significant harm or endangerment to human life, health or the environment. Immediate removal

would, therefore, be appropriate to avert or mitigate fires or explosions; human, animal or food-chain exposure to acutely toxic substances; contamination of a drinking water supply; or other similarly acute situations. The pattern of response outlined for this type of release is similar to the pattern of response used in the current Plan, Subpart E, for oil and hazardous substance removal. Immediate removal actions will be terminated after six months or $1 million is expended, unless findings required by section 104(c)(1) of the statute are made. Immediate removal will be terminated at any time prior to reaching these limitations when it is determined that the criteria in § 300.64(a)(1) are no longer present.

2. *Planned Removal.* Section 300.66 of Subpart F allows a planned removal at a release that is listed as a priority or at an unranked release to abate a threat that may result in a need to take immediate removal. Planned removals are appropriate when an expedited, but not necessarily immediate, response should be taken.

Planned removal is intended to conserve Fund monies by allowing timely response to releases which, if addressed expeditiously, will result in substantial cost savings while effectively minimizing and mitigating increases in damage or exposure that otherwise would occur if response were delayed. No planned removal may be taken, however, unless it will result in a self contained unit, the State agrees to share in at least 10 percent of the project expenses, and, in the case of an unranked site, the State assures the release will be submitted as a priority in the next revision of the National Priorities List. A self-contained component is one that (1) is a discrete activity which can be completed within the relevant time and funding constraints; (2) should not require future expenses on operation and maintenance; and (3) effectively contributes to lessening damages or exposure or increases in damages or exposure. Funding of such a component does not commit the Fund to taking any further action. Planned removal may not exceed the six months or $1 million limitation of section 104(c)(1) of CERCLA unless findings required by section 104(c)(1) of CERCLA are made. The six months or $1 million limitation does not include expenses incurred under section 104(b) of CERCLA.

3. *Remedial Response.* (a) *Establishment of National Priorities.* Releases that may be considered for remedial actions must be identified on the National Priority List. Section 300.65(d) sets forth the criteria and methodology contained in a Hazard Ranking System that the States and EPA will use to determine priorities for response among releases of hazardous substances. These proposed criteria have been used to establish an interim priority list of 115 releases or threatened releases which will be used to make initial funding decisions. EPA will use this interim ranking and any public comments received on the proposed revisions to the NCP to reexamine the Hazard Ranking System, and make any necessary modifications. The final criteria will be used to assign priority ranking to at least 400 of the highest priority releases. These will be published as the National Priority List. This list will be used to allocate funds for remedial and planned removal activities.

(i) *Hazard Ranking System.* The criteria and methodology to be used in ranking releases are referenced in § 300.65(d) as the Hazard Ranking System (HRS). The HRS is designed to provide an estimate of the relative severity of hazardous substance releases by considering: (1) The relative potential of substances to cause hazardous situations, (2) the likelihood and rate at which the substances may affect human and environmental receptors, and (3) the severity and magnitude of the potential effects.

The HRS identifies five major pathways of exposure to determine the relative hazard of each release or potential release. The five pathways of exposure are: (1) Ground water, (2) surface water, (3) air, (4) direct contact, and (5) fire and explosion. The first three pathways define the types of chronic harm which may be associated with releases to be addressed by remedial actions while the latter two define types of situations which normally are addressed by removal actions.

The probability of exposure to releases through each pathway is related to such factors as the geology of the location of the release, the kinds of engineering controls practiced at the facility, and the physical characteristics of the hazardous substances.

The degree of harm or endangerment, assuming exposure through one or more of the pathways, is considered to be a function of a number of factors, including the population exposed, the dangerous properties of the hazardous substances, and the value of the resources affected by the release.

In combining the two factors, probability and magnitude, the following equation is used to represent risks:

$R=(P)(M)$

where R=Risk

P=Probability (of adverse event)

M=Magnitude (of adverse event)

This approach is used in the HRS with modifications to reflect the uncertainties often present during investigations at hazardous substance releases. These uncertainties are a result of the inability of investigators to accurately quantify the probability (except where pollution is observed) or the magnitude of a threat without completing lengthy and expensive studies. Therefore, while the HRS can be used to discriminate relative risk among various facilities, it does not present absolute risks.

In order to calculate the hazard ranking score for a given release, one must assign a numerical value, for most factors on a scale of 0 to 3, for each pathway characteristic. Where releases have been observed, one assigns scores for observed pollution levels rather than estimating factors related to the probability of a release. For example, if ground water pollution has been verified through sampling and analysis, the probability of occurrence is known to be 100 percent and one assigns the highest score possible for those factors related to the probability of ground water pollution. These values are added or multiplied as appropriate to calculate a score for each pathway. The scores for the ground water, surface water, and air pathways are then aggregated to obtain the total score using the following formula:

The overall rating value=

$R_1^2+R_2^2+R_3^2$

where:

R_1= the rating value for ground water

R_2= the rating value for surface water

R_3= the rating value for air

The other two pathways, fire and explosion and direct contact, are evaluated using the model, but the scores are not incorporated into the overall rating value. Rather, these scores are used to assess the need for possible removal actions at the facility. Section 300.65 references "A Model for Determining Priorities Among Hazardous Substance Releases" which provides detailed information on the Hazard Ranking System. It can be obtained from the Hazardous Site Control Division (WH-548-E), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

In developing the HRS, EPA reviewed several other models which have been developed for rating the relative hazard to public health and the environment posed by hazardous substance releases.

Among those models considered were: (1) The LeGrand model, (2) the Surface Impoundment Assessment (SIA) model, (3) EPA's Solid and Hazardous Waste Research Program Predictive Method (SPM), and (4) the Rating Methodology model developed by EPA to set priorities for investigation of hazardous waste sites. Each of these alternative models were determined to have weaknesses which rendered them inadequate for the purposes of the present program.

The LeGrand model evaluates the potential for ground water (primary wells) contamination by waste disposal sources. The final rating reflects the potential hazard of the wastes, the likelihood of the wastes reaching ground water, and the vulnerability of the ground water to contamination. However, the LeGrand model, appropriate only for ground water pollution, is not applicable because it does not address the spectrum of environmental routes, damage mechanisms, or target organisms that are covered under CERCLA.

The SIA model expands the scope of the LeGrand model to evaluate the potential threat of contamination to ground water itself, rather than the potential threat of contamination of wells. However, the model does not take into account hazards posed by other potential routes or damage mechanisms and, therefore, EPA rejected this model.

SPM involves the application of multivariate analysis to evaluate the relative importance of various rating factors in predicting ground water effects and classifies releases into three categories representing high, medium and low potential for ground water contamination. EPA believes multivariate analysis may be useful in refining weights given to pathways of exposure when complete data are available. This method, however, is not directly applicable to ranking of releases over many pathways of exposure, nor for classifying the releases into more than just a few categories.

The Rating Methodology Model was developed to assess landfills, surface impoundments and other types of land-based storage and disposal facilities for the purpose of allocating resources for site investigations. To accomplish that objective, a model was designed to require only readily available information, instead of making use of the results of field observations. After approximately one year of use in rating releases, EPA has decided that results based on this model are too imprecise to warrant its use in setting priorities.

Consequently, EPA initiated an effort to develop a system for setting priorities. The result of this effort is the HRS described in § 300.65(d) of this Plan. Like the Rating Methodology Model, each pathway is evaluated independently of the others. Also, where appropriate, factors are multiplicative rather than additive. This approach minimizes the likelihood that factors irrelevant to the risk at a given facility will significantly contribute to the hazard ranking score.

During the development of the HRS, issues were raised concerning: (1) The weighting factors given to the information considered by the system, (2) the apparent use of conservative assumptions when observed data are unavailable; and (3) the consideration of risks as being additive.

Concerning the weighting factors used in the HRS, EPA has verified the HRS, using empirical data to modify, where necessary, the weights and the selection of variables.

Concerning the apparent equal weights given to all pathways, the HRS does allow the maximum possible scores, representing worst case incidents, to be equal for all pathways. We do not believe we can discriminate the very serious hazard which would be presented to the public and environment in the worst case situation in one pathway from the hazard presenting the worst case in any other pathway. However, the HRS is structured so that high scores will be assigned to some pathways more frequently than to others, approximately the frequency distributions of problems in the various pathways.

With regard to the issue that the HRS apparently uses estimates or conservative assumptions when observed data are unavailable, the HRS makes no provision for estimates or conservative assumptions. The HRS is to be applied only where adequate data exist. It is possible that the comments referenced address the characteristics of the HRS where the user does not necessarily need to have observations demonstrating that a release has already occurred. Rather, it is possible to substitute factors which relate to the probability of the occurrence of a release. The Agency selected this approach, consistent with CERCLA section 105(8)(A), to allow the evaluation of threatened releases. In most cases, all other factors being equal, scores obtained using the capability of the HRS to predict that a release might occur will be lower than those obtained if a release has been observed. Only where all predictive factors are scored at the maximum, indicative of an extremely high probability of a release, would the scores of predicted and observed releases be similar.

Some reviewers stated that the HRS assumed that risks associated with the various pathways are additive. Those reviewers disagreed with the additive approach in combining the scores of the various pathways. The Agency agrees, and has not used an additive approach to combine pathway scores. The Agency has selected a formula for aggregating the pathway scores which has the following characteristics: (1) Ground water, surface water and air pathway scores are taken into account; (2) secondary pathway scores contribute significantly to the total only if they approach the maximum possible score; (3) if all pathway scores are low, the total score is low; and (4) even if only one pathway is rated with a high score, the total score will be sufficiently high so that the facility will be included among the highest priorities. This is accomplished by taking the square root of the sum of the squares of the score for the three major pathways to arrive at a total score. The other pathways (fire or explosion and direct contact) are also scored, and those scores are taken into account for planning removal actions.

(ii) *State Priority Submissions.* Section 300.65(d)(3)(B) provides that each State shall use the HRS to evaluate the threat posed by releases in the State, and to assign priorities to such releases for response activities. Each State is to develop a list of candidate releases which includes: (1) A summary of data pertinent to establishing the seriousness of the threat of the hight priority releases; (2) the availability of a financially viable, liable party and the status of any planned enforcement and/or response actions; (3) the next response phase needed and its estimated cost; and (4) an indication of the State's ability to make the assurances required by section 104(c)(3) of CERCLA. EPA will, from time to time, provide States with additional guidance on procedures for formulating and submitting candidates for the National Priority List.

(iii) *National Priorities.* The State candidates for the National Priority List will be submitted to the EPA Regional Offices for review to ensure uniform application of the Hazard Ranking System. EPA may, in consultation with the State and appropriate Federal agencies, add additional priority releases to the list submitted by the State. The State Priority Lists will be consolidated by EPA Headquarters into a National Priority List consisting of an estimated 400 highest priority releases. To the extent practicable, each State will have at least one site ranked among the 100 highest priority releases. The

National Priority List will then be published with releases categorized into priority groups.

The Agency believes that several purposes will be served by deferring publication of the National Priorities List at this time. First, priorities would be based on a larger and better pool of information, including that received pursuant to the hazardous waste site reports required under section 103(c) of the Act. Second, priorities would be based on the criteria in the final HRS adopted after notice and comment. Finally, if State Priority submissions are timely, EPA will have the benefit of additional valuable State input before publishing the National Priorities List. In the interim, EPA will continue to respond to those releases which it believes are most urgent.

(b) *Remedial Actions.* Phase VI Remedial Actions may be taken where response generally will require long-term and more costly action to prevent, contain, or cleanup releases. These actions are subject to the requirements for State participation pursuant to section 104(c)(3) of CERCLA. Before any remedial action is taken, States must assue that they will conduct all future maintenance for the expected life of such action and agree to pay 10 percent of the cost of the remedial action (or at least 50 percent of all response costs if the facility was owned by the State or political subdivision thereof at the time the hazardous substance was disposed of) including all future maintenance (section 104(c)(3)).

Phase VI addresses the methods and criteria for determining the appropriate extent of response for remedial actions. The remedial scheme presented in Phase VI focuses on the decision making process used during a remedial investigation and feasibility study to determine the most cost-effective remedy which will effectively minimize and mitigate the danger posed by the release and provide adequate protection of public health, welfare, or the environment. The process consists of the following steps:

(i) *Determine whether the release is ranked.* Remedial response will be taken only at releases on the National Priority List. If a release is not ranked, no remedial action will be taken by the Fund.

(ii) *Review and update of data to determine whether threat to public health, welfare, or the environment still exists.* This step entails a review of existing data and an update of that data, if necessary, to determine whether a threat to public health, welfare, or the environment still exists. This step primarily serves the purpose of assuring that conditions at releases have not changed such that the release no longer requires a response.

(iii) *Scoping.* This step requires careful assessment of the type of problem presented by the release and an initial determination of the type or types of remedial action that may be appropriate. In order to facilitate flexible decision-making and to provide a critical management tool for conserving Fund monies, the Plan provides for three types of remedial actions. Each is tailored to a particular type of problem. These actions may be taken alone or in combination, depending on the conditions at the particular release.

(A) *Initial Remedial Measures*—Section 300.67(e) allows such measures when EPA determines it is feasible and necessary to limit exposure or threat of exposure to a significant health or environmental hazard. These measures are intended to be limited in scope, require a minimum of planning and to be accomplished within a short period of time. These actions generally will run on a "fast track" and be accomplished separately from the remainder of the remedial action. Section 300.67(e) details criteria for taking such actions.

(B) *Source Control Remedial Action*—Section 300.67(f)(1) establishes criteria for determining whether source control actions may be necessary. Such actions would include those taken at or near the area where the hazardous substance was originally located in order to control the migration of such substances into the environment. These actions may include control of hazardous substances at or near the location of the release or transport of the substances off-site.

The creation of this category of remedial action reflects the belief that where the hazardous substance that was the cause of the original release is inadequately controlled, the first objective of a response should be to achieve a level of control that will prevent, minimize and mitigate any significant threat of harm from migration of the source material.

(C) *Off-site remedial actions*—Section 300.67(f)(2) contains criteria for determining whether action is needed to minimize and mitigate the migration of substances and the effects of this migration. These actions only are appropriate when EPA determines that source control actions are inadequate to effectively minimize and mitigate the threat posed by the release.

The distinction drawn between off-site and source control actions is designed to accommodate the diversity of conditions found at releases. The identification of source control actions as those taken at or near the area where the hazardous substances originally were located, provides the lead agency the necessary flexibility to determine the boundaries of the area which must be controlled in order to remedy the area where the hazardous substance originally was located. The off-site remedial action category also allows the lead agency the flexibility to remedy areas to which substances have migrated. Although there may be some overlap in these categories, the overlap is necessary given diverse conditions at releases and the need to develop cost-effective remedies.

(iv) *Collect and analyze data and develop limited number of alternatives.* After scoping the type or types of remedial action needed, more extensive data collection and analysis will be undertaken. This analysis will be used to develop a limited number of alternatives that may be feasible for remedying the release.

(v) *Initial screening of alternatives.* Section 300.67(h) requires that alternatives be screened using cost, environmental, health and engineering criteria. This screening entails a "macro" analysis of alternatives to reject those that fail to meet the criteria.

(vi) *Refine alternatives and perform detailed analysis.* Section 300.67(i) requires refinement of remaining alternatives and a detailed analysis of those alternatives in terms of cost, implementation and engineering feasibility, adequacy and reliability and potential adverse impacts on health or the environment.

(vii) *Selection of cost-effective alternative.* Section 300.67(j) requires the lead agency to choose the most cost-effective remedial alternative which effectively minimizes and mitigates the danger and provides adequate protection of public health, welfare, and the environment.

(vii) *Fund-balancing.* In the case of Fund-financed response, section 104(c)(4) of CERCLA requires that the need for protection of public health, welfare, or the environment be balanced against the amount of money available in the Fund to respond to other releases. Therefore, § 300.67(k) requires that the lead agency also apply this balancing requirement in determining the appropriate extent of remedy.

When the appropriate extent of remedy is determined, the project will be designed and constructed.

Each release presents a unique situation because of its diverse characteristics. This diversity, along with the fact that there is limited experience in remedying releases,

makes it imperative that flexibility be preserved throughout the remedial planning process. The remedial response scheme established in § 300.67 provides the lead agency with this important flexibility.

The need for this flexibility is demonstrated by EPA's prior experiences. Prior to the passage of CERCLA, the Agency's primary vehicles for releases from addressing releases from hazardous waste management facilities, other than the somewhat limited authority and funds of section 311 of the Clean Water Act, was enforcement action pursuant to various statutory emergency power provisions. The Federal Government has filed over 60 judicial enforcement actions as of October 1981 pursuant to these emergency power provisions, primarily under section 7003 of the Resource Conservation and Recovery Act.

In these enforcement actions, the Agency has, on a case-by-case basis, made a combined scientific and legal judgment as to the appropriate extent of remedy, based on the extent of hazard, existing Federal and State standards and criteria, available technologies and their relative costs, the financial capabilities of prospective defendants, the culpability of prospective defendants and relevant court precedents.

This has resulted in settlements and initial court decisions calling for remedial activity in individual circumstances ranging from complete elimination or cleanup of contaminants to nondetectable levels to installation of containment and/or treatment alternatives in addition to or in lieu of rehabiliation of the contaminated environment. EPA's experience from these enforcement actions has demonstrated that the appropriate extent of remedy will probably differ depending on the individual release. Based on this experience, the Agency has decided that a flexible standard for determining the appropriate extent of remedy is the best standard at this time. As the Agency gains greater knowledge regarding cleaning up releases of hazardous substances, more specific standards may be appropriate.

In developing this section, EPA considered a variety of options:

One option was to require cleanup to levels that met Federal and State standards or water quality criteria. The Agency has decided that such a rigid requirement would impose the use of potentially inappropriate levels of cleanup that would not allow consideration of individual circumstances at each release. Any appropriate standard or criteria will be considered in determining the cleanup level of a particular release, along with other technological and environmental factors. Additionally, CERCLA itself imposes a balancing test on the selection of remedies—that response at any particular release be weighed against need for response at other releases.

EPA also considered the suggestion to require a formal cost-benefit analysis for each remedial action. EPA believes that its selection of the appropriate extent of remedy will adequately consider the costs and benefits of the different remedial alternatives at each release. A requirement to conduct a formal cost-benefit analysis would inevitably be dependent on the data used in such an analysis and merely result in rigid calculations that would foreclose any flexibility in the ultimate decision-making. Such an analysis would not further the Agency's goal of selecting the most appropriate remedy for each release.

(c) *Other Response Considerations.* (i) Section 300.68, Documentation and Cost Recovery, provides that all actions taken under the Plan are documented, collected, and maintained to form the basis of cost recovery.

(ii) Section 300.69 lists those methods of remedying releases that should be considered when taking response action. This list is not intended to be exhaustive but to give an indication of the types of remedies that the NRT considers to be appropriate and demonstrated methods. This list will be modified and/or expanded from time to time as new technologies are developed.

(iii) Section 300.70 discusses special considerations such as worker health and safety, and allocation of funds from the Disaster Relief Act for certain emergency response activities. Section 300.70(b) discusses the eligibility of non-Federal costs of implementing the Plan for payment from the Fund. EPA will not pay for any non-Federal response unless the response and associated costs have been preauthorized.

B. *Subpart G.* This subpart designates the heads of Federal agencies to act as trustees for natural resources and assigns responsibilities to the agencies as trustees. The designation is in accord with section 111(h)(1) of CERCLA and section 311(f)(5) of CWA and Executive Order 12316.

C. *Subpart H.* In response to the statutory mandate that the Plan include a schedule identifying dispersants and how and where they may be used, the current Plan created a complex and expensive system for registering dispersants. The statute envisioned development of a schedule identifying dispersants, describing the parameters of proper usage and case-by-case decisions on the use of other dispersants. The current system has resulted in no schedule of approved dispersants and virtually no approval of dispersants on a case-by-case basis. The revised Plan seeks to simplify case-by-case approvals until there is sufficient information to promulgate a schedule of dispersants.

III. Regulatory Impact Analysis

An analysis of the economic impacts of the revisions to the NCP was conducted to determine whether they qualified as a major rule under Executive Order 12291. The results of the analysis, based on the approaches examined in developing the current proposed form of the Plan, indicate that the revisions to the Plan constitute a major rule, because they are likely to result in an annual effect on the economy of $100 million or more. The analysis is available for inspection at Room G–200, (WH–548–D), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

IV. Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980, the Agency has reviewed the impact of the revised NCP on small entities. EPA certifies that the NCP will not have a significant impact on a substantial number of small entities.

V. Enforcement Actions

Consistent with the Plan, EPA will continue to pursue enforcement actions as an alternative or complement to Fund-financed response activities. It is EPA policy that the same factors used to determine the appropriate extent of remedy for Fund-financed cleanup be considered to evaluate the adequacy of or determine the level of cleanup to be sought through enforcement efforts. Section 300.67(c) explicitly reflects this policy by providing that the criteria in § 300.67 (e) through (j) will be used to determine the appropriate extent of remedy for private party cleanup.

VI. Period for Public Comment

The Agency is providing 30 days for public comment pursuant to an order of the United States District Court for the District of Columbia in the case of Environmental Defense Fund, et al. v. Gorsuch, et al. (Nos. 81–2083 and 81–2269, February 12, 1982). The Agency intends to request the Court to amend its order and allow more than 30 days for public comment. The Agency will publish a notice in the **Federal Register**

if the Court amends its order and allows more than 30 days for public comment.

Dated: March 3, 1982.

Anne M. Gorsuch,

Administrator.

Part 1510, Title 40 of the Code of Federal Regulations is proposed to be redesignated as Part 300, Title 40 and revised to read as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

Subpart A—Introduction

Sec.

Subpart B—Responsibility

Subpart C—Organization

Subpart D—Plans

Subpart E—Operational Response Phases for Oil Removal

Subpart F—Hazardous Substance Response

Subpart G—Destination and Responsibilities of Federal Trustees of Natural Resources

Subpart H—Use of Dispersants and Other Chemicals

Authority: Sec. 105, Pub. L. 96–510, 94 Stat. 2764, 42 U.S.C. 9605 and sec. 311(c)(2), Pub. L. 92–500, as amended; 86 Stat. 865, 33 U.S.C. 1321(c)(2); Executive Order 12316, 46 FR 42237 (August 20, 1981); Executive Order 11735, 38 FR 21243 (August 1973).

Subpart A—Introduction

§ 300.1 Purpose and objectives.

The purpose of the National Oil and Hazardous Substances Pollution Contingency Plan (Plan) is to effectuate the response powers and responsibilities created by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the authorities established by section 311 of the Clean Water Act (CWA), as amended.

§ 300.2 Authority.

The Plan is required by section 105 of CERCLA, 42 U.S.C. 9605, and by section 311(c)(2) of the Clean Water Act (CWA), as amended, 33 U.S.C. 1321(c)(2). In Executive Order 12316 (46 FR 42237) the President delegated to the Environmental Protection Agency the authority and responsibility to prepare, publish, revise, and amend the Plan in coordination with the National Response Team and Federal Emergency Management Agency.

§ 300.3 Scope.

(a) The scope of the Plan is specified by the statutes requiring their promulgation. The Clean Water Act requires that the Plan "shall provide for efficient, coordinated, and effective action to minimize damage" from oil and hazardous substance discharges, and provides further that the Plan shall include:

(1) Assignment of duties and responsibilities among Federal agencies in coordination with State and local agencies (33 U.S.C. 1321(c)(2)(A)).

(2) Availability of response equipment and supplies (33 U.S.C. 1321(c)(2)(B)).

(3) Establishment of a strike force to carry out the Plan and establishment at major ports of emergency task forces and prevention and removal plans (33 U.S.C. 1321(c)(2)(C)).

(4) A system for surveillance and notice of discharges (33 U.S.C. 1321(c)(2)(D)).

(5) Establishment of a national center to ensure coordinated response (33 U.S.C. 1321(c)(2)(E)).

(6) Procedures and techniques for identifying, containing, dispersing, and cleaning up oil and hazardous substances (33 U.S.C. 1321(c)(2)(F)).

(7) A schedule developed in cooperation with States identifying dispersants, if any, that may be used in carrying out the Plan (33 U.S.C. 1321(c)(2)(G)).

(8) A system whereby the States can act to remove a discharge and be reimbursed from the Fund established under section 311(k) (33 U.S.C. 1321(c)(2)(H)).

(b) Section 105 of CERCLA requires that the NCP "shall establish procedures and standards for responding to releases of hazardous substances, pollutants, and contaminants." This requirement for establishing response procedures and standards is accompanied by ten enumerated provisions that the revised NCP "shall include." In summary, the ten provisions require:

(1) Methods for discovering and investigatng facilities where hazardous substances may be disposed of or otherwise come to be located or stored (42 U.S.C. 9605(1)).

(2) Methods for evaluating, including analysis of relative costs, and remedying releases that pose a substantial danger to public health or the environment (42 U.S.C. 9605(2)).

(3) Methods and criteria for determining the appropriate extent of response (42 U.S.C. 9605(3)).

(4) Roles and responsibilities for Federal, State and local governments and nongovernmental entities (42 U.S.C. 9605(4)).

(5) Availability of response equipment and supplies (42 U.S.C. 9605(5)).

(6) Assignment of responsibility for reporting releases on Federally owned or controlled properties (42 U.S.C. 9605(6)).

(7) Means of assuring that remedial actions are cost-effective (42 U.S.C. 9605(7)).

(8) Criteria for determining priorities among releases. Criteria and priorities shall be based upon EPA's judgment of relative risk or danger to public health or welfare or the environment (42 U.S.C. 9605(8)(a)).

(9) Listing of priorities among releases (42 U.S.C. 9605(8)(b)).

(10) Specifying roles for private organizations (42 U.S.C. 9605(9)).

(c) In addition to the enumerated provisions summarized above, section 105 also references requirements in sections 311(c)(2) (F) and (G) and 311(j)(1) of the CWA for which comparable "procedures, techniques, materials, equipment, and methods for identifying, removing, or remedying

releases of hazardous substances" are to be included in the revised Plan. Therefore, additional requirements for identifying, removing or remedying releases include:

(1) Procedures for identifying, containing, dispersing, and removing hazardous substances.

(2) A schedule for dispersants of hazardous substances and how and where they may be used.

(3) Methods for removal of hazardous substances.

(4) Criteria for development and implementation of Federal regional and Federal local contingency plans for responding to releases of hazardous substances.

(5) Procedures and equipment to contain releases of hazardous substances.

(d) In implementing this Plan, consideration should be given to the Joint U.S./Canadian Contingency Plan (including the annexes pertaining to the Great Lakes, and the Eastern and Western Coastal Areas); the Joint U.S./Mexican Contingency Plan and international assistance plans and agreements, security regulations, and responsibilities based on international agreements, Federal statutes and Executive orders. Actions taken pursuant to this Plan shall conform to the provisions of international joint contingency Plans, where they are applicable. This Plan shall be utilized to coordinate U.S. involvement in pollution incidents occurring in waters not under the management jurisdiction of the United States. The Department of State should be consulted prior to taking any action which may affect its activities. Nothing in any of the foregoing treaties or plans shall limit the application of any provision of this Plan.

§ 300.4 Application.

The Plan is applicable to response taken pursuant to the authorities under CERCLA and section 311 of the CWA.

§ 300.5 Abbreviations.

(a) *Department and Agency Title Abbreviations:*

DOC—Department of Commerce
DOD—Department of Defense
DOE—Department of Energy
DOI—Department of the Interior
DOJ—Department of Justice
DOL—Department of Labor
DOT—Department of Transportation
DOS—Department of State
EPA—Environmental Protection Agency
FEMA—Federal Emergency Management Agency
HHS—Department of Health and Human Services
NIOSH—National Institute for Occupational Safety and Health
NOAA—National Oceanic and Atmospheric Administration
OSHA—Occupational Safety and Health Administration
USCG—U.S. Coast Guard
USDA—U.S. Department of Agriculture
USGS—U.S. Geological Survey

(b) *Operational Title Abbreviations:*

ERT—Environmental Response Team
NRC—National Response Center
NRT—National Response Team
NSF—National Strike Force
OSC—On-Scene Coordinator
PAAT—Public Affairs Assist Team
PIAT—Public Information Assist Team
RRC—Regional Response Center
RRT—Regional Response Team
SSC—Scientific Support Coordinator

§ 300.6 Definitions.

Terms not defined in this section have the meaning given by CERCLA or the CWA.

Claim, as defined by section 101(4) of CERCLA, means a demand in writing for a sum certain.

Claimant, as defined by section 101(5) of CERCLA, means any person who presents a claim for compensation under CERCLA.

Coastal zone, as defined for the purpose of this Plan, means all U.S. waters subject to the tide, U.S. waters of the Great Lakes, specified ports and harbors on the inland rivers, waters of the contiguous zone, other waters of the high seas subject to this Plan, and the land substrata, ground waters, and ambient air proximal to those waters. The term coastal zone delineates an area of Federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreements and identified in Federal regional contingency plans.

Contiguous zone means the zone of the high seas, established by the United States under Article 24 of the Convention on the Territorial Sea and Contiguous Zone, which is contiguous to the territorial sea and which extends 9 miles seaward from the outer limit of the territorial sea.

Discharge, as defined by section 311(a)(2) of CWA, includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping of oil. For purposes of this Plan, discharge shall also mean substantial threat of discharge.

Drinking water supply, as defined by section 101(7) of CERCLA, means any raw or finished water source that is or may be used by a public water system (as defined in the Safe Drinking Water Act) or as drinking water by one or more individuals.

Environment, as defined by section 101(8) of CERCLA, means (a) the navigable waters of the United States, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the U.S. under the Fishery Conservation and Management Act of 1976, and (b) any other surface water, ground water, drinking water supply, land surface and subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.

Facility, as defined by section 101(9) of CERCLA, means (a) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (b) any site or area where a hazardous substance has been deposited, stored, disposed of, placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

Federally permitted release, as defined by section 101(10) of CERCLA, means (a) discharges in compliance with a permit under section 402 of the Federal Water Pollution Control Act, (b) discharges resulting from circumstances identified and reviewed and made part of the public record with respect to a permit issued or modified under section 402 of the Federal Water Pollution Control Act and subject to a condition of such permit, (c) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of the Federal Water Pollution Control Act, which are caused by events occurring within the scope of relevant operating or treatment systems, (d) discharges in compliance with a legally enforceable permit under section 404 of the Federal Water Pollution Control Act, (e) releases in compliance with a legally enforceable final permit issued pursuant to section 3005 (a) through (d) of the Solid Waste Disposal Act from a hazardous waste treatment, storage, or disposal facility when such permit specifically identifies the hazardous substances and makes such substances subject to a standard of practice, control procedure or bioassay limitation or condition, or other control on the hazardous substances in such releases, (f) any release in compliance with a legally enforceable permit issued under section 102 or section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, (g) any injection of fluids authorized under Federal underground injection control

programs (and not disapproved by the Administrator of EPA) pursuant to part C of the Safe Drinking Water Act, (h) any emission into the air subject to a permit or control regulation under section 111, section 112, title 1, part C, title 1 part D, or State implementation plans submitted in accordance with section 110 of the Clean Air Act (and not disapproved by the Administrator of EPA), including any schedule or waiver granted, promulgated, or approved under these sections, (i) any injection of fluids or other materials authorized under applicable State law (1) for the purpose of stimulating or treating wells for the production of crude oil, natural gas, or water, (2) for the purpose of secondary, tertiary, or other enhanced recovery of crude oil or natural gas, or (3) which are brought to the surface in conjunction with the production of crude oil or natural gas and which are reinjected, (j) the introduction of any pollutant into a publicly owned treatment works when such pollutant is specified in and in compliance with applicable pretreatment standards of section 307 (b) or (c) of the CWA and enforceable requirements in a pretreatment program submitted by a State or municipality for Federal approval under section 402 of such Act, and (k) any release of source, special nuclear, or byproduct material, as those terms are defined in the Atomic Energy Act of 1954, in compliance with a legally enforceable license, permit, regulation, or order issue pursuant to the Atomic Energy Act of 1954.

Fund or Trust Fund means the Hazardous Substance Response Trust Fund established by section 221 of CERCLA.

Ground water, as defined by section 101(12) of CERCLA, means water in a saturated zone or stratum beneath the surface of land or water.

Hazardous substance, as defined by section 101(14) of CERCLA, means (a) any substance designated pursuant to section 311(b)(2)(A) of the CWA, (b) any element, compound, mixture, solution, or substance designated pursuant to section 102 of CERCLA, (c) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (d) any toxic pollutant listed under section 307(a) of the CWA, (e) any hazardous air pollutant listed under section 112 of the Clean Air Act, and (f) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act. The terms do not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under paragraphs (a) through (f) of this paragraph, and the term does not include natural gas, natural gas liquids, liquified natural gas or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

Inland zone means the environment inland of the coastal zone excluding the Great Lakes and specified ports and harbors of inland rivers. The term inland zone delineates the area of Federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreement and identified in Federal regional contingency plans.

Lead agency means the agency that provides the On-Scene Coordinator.

Natural resources, as defined by section 101(16) of CERCLA, means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of fishery conservation zones established by the Fishery Conservation and Management Act of 1976), any State or local government or any foreign government.

Offshore facility, as defined by section 101(17) of CERCLA and section 311(a)(11) of the CWA, means any facility of any kind located in, on, or under any of the navigable waters of the U.S. and any facility of any kind which is subject to the jurisdiction of the U.S. and is located in, on, or under any other waters, other than a vessel or a public vessel.

Oil, as defined by section 311(a)(1) of CWA, means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuses, and oil mixed with wastes other than dredged spoil.

Oil pollution fund means the fund established by section 311(k) of the CWA.

Onshore facility (a) as defined by section 101(18) of CERCLA means any facility (including but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under any land or non-navigable waters within the United States; and (b) as defined by section 311(a)(10) of CWA means any facility (including but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under any land within the United States other than submerged land.

On-Scene Coordinator means the Federal official predesignated by the EPA or the USCG to coordinate and direct Federal responses under this Plan.

Plan means the National Oil and Hazardous Substances Pollution Contingency Plan published under section 311(c) of the CWA and revised pursuant to section 105 of CERCLA.

Pollutant or *contaminant,* as defined by section 104(a)(2) of CERCLA, shall include, but not be limited to, any element, substance, compound, or mixture, including disease causing agents, which, after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformation, in such organisms or their offspring. The term does not include petroleum, including crude oil and any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under sections 101(14) (A) through (F) of CERCLA, nor does it include natural gas, liquified natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and synthetic gas).

Release, as defined by section 101(22) of CERCLA, means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes: (a) Any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (c) release of source, by-product or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of such act, or, for the purposes of section 104 of CERCLA or any other response action, any release of source, by-product, or special nuclear material from any processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978, and (d) the normal application of fertilizer. For the purposes

of this Plan, release also means substantial threat of release.

Remove or *removal,* as defined by section 311(a)(8) of CWA refers to removal of oil or hazardous substances from the water and shorelines or the taking of necessary actions to minimize or mitigate damage to the public health or welfare. As defined by section 101(23) of CERCLA, means the cleanup or removal of released hazardous substances from the environment, such actions as may be necessary in the event of the threat of release of hazardous substances into the environment, such actions as may be necessary to monitor, assess, and evaluate the release or threat of release of hazardous substances, the disposal of removed material, or the taking of such other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or the environment, which may otherwise result from such release or threat of release. The term includes, in addition, without being limited to, security fencing or other measures to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, action taken under section 104(b) of CERCLA, and any emergency assistance which may be provided under the Disaster Relief Act of 1974.

Remedy or *remedial action,* as defined by section 101(24) of CERCLA, means those actions consistent with permanent remedy taken instead of, or in addition to removal action in the event of a release or threatened release of a hazardous substance into the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the President determines that, alone or in combination with other measures, such relocation is more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition offsite of such hazardous substances or may otherwise be necessary to protect the public health or welfare. The term does not include offsite transport of hazardous substances, or the storage, treatment, destruction, or secure disposition offsite of such hazardous substances or contaminated materials unless the President determines that such actions: (a) Are more cost-effective than other remedial actions, (b) will create new capacity to manage, in compliance with subtitle C of the Solid Waste Disposal Act, hazardous substances in addition to those located at the affected facility, or (c) are necessary to protect public health or welfare or the environment from a present or potential risk which may be created by further exposure to the continued presence of such substances or materials.

Respond or *response,* as defined by section 101(25) of CERCLA, means remove, removal, remedy, or remedial action, as appropriate.

Size classes of discharges refers to the following size classes of discharges which are provided as guidance to the OSC and serve as the criteria for the actions delineated in Subpart E. They are not meant to imply associated degrees of hazard to public health or welfare, nor are they a measure of environmental damage. Any pollution that poses a substantial threat to the public health or welfare or results in critical public concern shall be classified as a major pollution incident regardless of the following quantitative measures:

(a) *Minor discharge* means a discharge to the inland zone of less than 1,000 gallons of oil or a discharge to the coastal zone of less than 10,000 gallons of oil.

(b) *Medium discharge* means a discharge of 1,000 to 10,000 gallons of oil to the inland zone or a discharge of 10,000 to 100,000 gallons of oil to the coastal zone.

(c) *Major discharge* means a discharge of more than 10,000 gallons of oil to the inland zone or more than 100,000 gallons of oil to the coastal zone.

Trustee means any Federal natural resources management agency designated in Subpart G of this plan, and any State agency which may prosecute claims for damages under section 107(f) of CERCLA.

United States and *State* includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Somoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas and any other territory or possession over which the U.S. has jurisdiction.

Volunteer means any individual recruited, trained and accepted to perform services by a Federal agency which has authority to accept volunteer services (example: *See* 16 U.S.C. 7421(c)). A volunteer is subject to the provisions of the authorizing statute.

Subpart B—Responsibility

§ 300.21 Duties of President delegated to Federal agencies.

(a) In Executive Order 11735 and Executive Order 12316 the President delegated certain functions and responsibilities vested in him by the CWA and CERCLA, respectively. Responsibilities so delegated shall be responsibilities of Federal agencies under this Plan unless:

(1) Responsibility is redelegated pursuant to section 8(f) of Executive Order 12316, or

(2) Executive Order 11735 or Executive Order 12316 is amended or revoked.

§ 300.22 Coordination among and by Federal agencies.

(a) Federal agencies should coordinate their planning and response activities through the mechanisms described in Subpart C of this plan and other means as may be appropriate.

(b) Federal agencies should coordinate planning and response actions with affected State and local governments and private entities to the extent circumstances may permit.

(c) Federal agencies with facilities or other resources which may be useful in a Federal response situation should make those facilities or resources available consistent with agency capabilities.

(d) When the head of the lead agency determines:

(1) That there is an imminent and substantial threat to the public health or welfare or the environment because of a discharge of oil from any offshore or onshore facility, or

(2) That there may be an imminent and substantial endangerment to the public health or welfare or the environment because of a release or threatened release of a hazardous substance, pollutant or contaminant from a facility; he may request the Attorney General to secure the relief necessary to abate the threat. The NRT may recommend that EPA or the USCG

exercise this authority. The action described here is in addition to any actions taken by a State or local government for the same purpose.

(e) In accordance with section 311(d) of CWA, whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare, because of a discharge or an imminent discharge from a vessel of large quantities of oil or hazardous substances designated pursuant to section 311(b)(2)(A) of CWA, the United States may:

(1) Coordinate and direct all public and private efforts to abate the threat;

(2) Summarily remove and, if necessary, destroy the vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. The authority for these actions has been delegated under Executive Order 11735 to the Administrator of EPA and the Secretary of the Department in which the Coast Guard is operating, respectively, for the waters for which each designates the OSC under this Plan.

(f) Response actions to remove discharges originating from the Outer Continental Shelf Lands Act operations shall be in accordance with the August 1971 Memorandum of Understanding between DOI and DOT concerning respective responsibilities under this Plan.

(g) Where appropriate, discharges of radioactive materials shall be handled pursuant to the Interagency Radiological Assistance Plan.

§ 300.23 Other assistance by Federal agencies.

(a) Each of the participating Federal agencies has duties established by statute, Executive order, or Presidential directive which may be relevant to Federal response action following or in prevention of a discharge of oil or a release of a hazardous substance, pollutant or contaminant. These duties may also be relevant to the rehabilitation, restoration, and replacement of damaged or lost natural resources. Federal regional contingency plans should call upon agencies to carry out these duties in a coordinated manner.

(b) The following Federal agencies may be called upon by an OSC during the planning or implementation of a response to provide assistance in their respective areas of expertise, consistent with their capabilities:

(1) Department of Agriculture.

(2) Department of Commerce.

(3) Department of Defense.

(4) Department of Energy.

(5) Federal Emergency Management Agency.

(6) Department of Health and Human Services.

(7) Department of the Interior.

(8) Department of Justice.

(9) Department of Labor.

(10) Department of State.

(11) Department of Housing and Urban Development.

(12) The Small Business Administration.

(13) Department of Transportation.

(14) Environmental Protection Agency.

(c) In addition to their general responsibilities under paragraph (a) of this section, participating agencies should:

(1) Make necessary information available to the NRT, RRTs, and OSCs.

(2) Inform the NRT and RRTs (consistent with national security considerations) of changes in the availability of resources that would affect the operations of the plan.

(d) All Federal agencies are responsible for reporting the existence of facilities which may be located on Federally owned or controlled properties and any releases of hazardous substances from facilities which are under their jurisdiction or control in accordance with procedures outlined in Subparts E and F.

§ 300.24 State and local participation.

(a) Each State governor is requested to assign an office or agency to represent the State on the appropriate RRT. Local governments are invited to participate in RRT activities as may be provided by State law or arranged by the State's representative. The State's representative may participate fully in all facets of RRT activities and is encouraged to designate the element of the State government that will direct State supervised response operations.

(b) State and local government agencies are encouraged to include contingency planning for response, consistent with this Plan and Regional Contingency Plans, in all emergency and disaster planning.

(c) States are encouraged to use State authorities to compel potentially responsible parties to undertake response actions, or to themselves undertake response actions which are not eligible for Federal funding.

(d) States may enter into contracts or cooperative agreements pursuant to section 104 (c)(3) and (d) of CERCLA, to undertake actions authorized under section 1510.63 of this Plan. Prior to taking any remedial action pursuant to sections 104 (c)(3) and (d) of CERCLA, States shall enter into a cooperative agreement which meets the minimum requirements under sections 104 (c)(3) and (d) of the Act, and other requirements deemed necessary by appropriate Federal agencies.

(e) States are responsible for applying priority criteria in accordance with Subpart F and submitting State priorities for establishment of response priorities in accordance with Subpart F and applicable State guidlines.

(f) Where a State has assumed responsibility for response actions pursuant to Subpart F of this plan, the State is responsible for designating an individual to fulfill such responsibilities as the executing agency deems necessary.

§ 300.25 Non-Government participation.

(a) Industry groups, academic organizations, and others are encouraged to commit resources for response operations. Specific commitments should be listed in Federal regional, and Federal local contingency plans.

(b) It is particularly important to use the valuable technical and scientific information generated by the non-government local community along with those from Federal and State governments to assist the OSC in devising cleanup strategies where effective standard techniques are unavailable, to assist in the performance of damage assessments, and to ensure that pertinent research will be undertaken to meet national needs.

(c) Federal local contingency plans should establish procedures to allow for well-organized, worthwhile, and safe use of volunteers. Local plans should provide for the direction of volunteers by the OSC, or by other Federal, State or local officials knowledgeable in contingency operations and capable of providing leadership. If, in the judgment of the OSC or an appropriate participating agency, dangerous conditions exist, volunteers shall be restricted from on-scene operations.

(d) If any person other than the Federal Government or a State or person operating under contract or cooperative agreement with the United States, takes removal or remedial action and intends to seek reimbursement from the Fund, such actions to be in conformity with this Plan for purposes of section 111(b) of CERCLA may only be undertaken:

(1) After prior written notice to the Administrator of EPA of intention to undertake a removal (notice must be given at least thirty (30) days prior to initiation of removal, unless

circumstances require shorter notice to protect public health and welfare or the environment); and

(2) After prior consent and approval by the assigned OSC of plans, procedures, and costs to be incurred pursuant to CERCLA section 111(a), including recommendations for the protection of cleanup crews.

(e) A person that does not intend to seek reimbursement from the Fund for removal or remedial costs does not need to obtain preauthorization pursuant to § 1510.25(d) (1) and (2) to act consistent with this Plan.

(f) Fund compensation to claimants for response costs shall be subject to the provisions of CERCLA section 104(c), or CWA section 311(i) and must be consistent with all other provisions and requirements of the Plan and the CERCLA.

Subpart C—Organization

§ 300.31 Organizational concepts.

Three fundamental kinds of activity are performed pursuant to the Plan: Planning and coordination, communications, and operations at the scene of a discharge, release, or threat of release. The organizational elements created to perform these activities are discussed below in the context of their roles in these activities.

§ 300.32 Planning and coordination.

(a) National planning and coordination is accomplished through the National Response Team (NRT).

(1) The NRT consists of representatives from the participating agencies. Each participating agency shall designate a member to the team and sufficient alternates to ensure representation, as agency resources permit.

(2) Except for periods of activation because of a response action, the representative of EPA shall be the chairman and the representative of USCG shall be vice chairman of the NRT. The vice chairman shall maintain records of NRT activities along with national, regional, and local plans for response actions. When the NRT is activated for response action, the chairman shall be the representative of the lead agency.

(3) While the NRT desires to achieve a consensus on all matters brought before it, certain matters may prove unresolvable by this means. In such cases, each cabinet department or agency serving as a participating agency on the NRT may be accorded one vote in NRT proceedings.

(4) The NRT may establish such bylaws and committees as it deems appropriate to further the purposes for which it is established.

(5) When the NRT is not activated for a response action, it shall serve as a standing committee to evaluate methods of responding to discharges or releases, to recommend needed changes in the response organization, and to recommend revisions to this Plan.

(6) The NRT may consider and make recommendations to appropriate agencies on the training, equipping and protection of response teams and necessary research, development, demonstration, and evaluation to improve response capabilities as the need arises.

(7) Direct planning and preparedness responsibilities of the NRT include:

(i) Maintaining readiness to respond to a nationally significant discharge of oil or release of a hazardous substance or pollutant or contaminant.

(ii) monitoring incoming reports from all RRTs and responding when necessary.

(iii) Reviewing regional responses to oil discharges and hazardous substance releases, including an evaluation of equipment readiness and coordination among responsibile public agencies and private organizations.

(iv) Developing procedures to ensure the coordination of Federal, State, and local governments and private response to oil discharges and hazardous substance releases.

(b) The RRT serves as the regional body for planning and preparedness actions before a response action is taken and for coordination and advice during such action. The RRT consists of regional representatives of the participating agencies, and representatives of State and local governments, as appropriate.

(1) Except when the RRT is activated for a removal incident, the representatives of EPA and USCG shall act as co-chairmen.

(2) Each participating agency should designate one member and at least one alternate member to the RRT. Participating State and local governments may also designate one member and at least one alternate member to the Team. All agencies may also provide additional representatives as observers to meetings of the RRT.

(3) RRT members should designate representatives from their agencies to work with OSCs in developing local contingency plans, providing for the use of agency resources, and in responding to discharges and releases (see § 300.43).

(4) Federal regional and Federal local plans should adequately provide the OSC with assistance from the Federal agencies commensurate with agencies' resources, capabilities, and responsibilities within the region. During a response action the members of the RRT should seek to make available the resources of their agencies to the OSC as specified in the Federal regional and Federal local contingency plans.

(5) Affected States are encouraged to participate actively in all RRT activities (see § 300.23(a)), to designate representatives to work with the RRT and OSCs in developing Federal regional and Federal local plans, to plan for and make available State resources, and to serve as the contact point for coordination of response with local government agencies whether or not represented on the RRT.

(6) The RRT serves as a standing committee to recommend changes in the regional response organization as needed, to revise the regional plan as needed, and to evaluate the preparedness of the agencies and the effectiveness of local plans for the Federal response to discharges and releases. The RRT should:

(i) Make continuing review of regional and local responses to discharges or releases, considering available legal remedies, equipment readiness and coordination among responsible public agencies and private organizations.

(ii) Based on observations of response operations, recommend revisions of the National Contigency Plan to the NRT.

(iii) Consider and recommend necessary changes based on continuing review of response actions in the region.

(iv) Review OSC actions to help ensure that Federal regional and Federal local contingency plans are developed satisfactorily.

(v) Be prepared to respond to major discharges or releases outside its region.

(vi) Meet at least semiannually to review response actions carried out during the preceding period, and consider changes in Federal regional and Federal local contingency plans.

(vii) Provide letter reports on their activities to the NRT twice a year, no later than January 31 and July 31. At a minimum, reports should summarize recent activities, organizational changes, operational concerns, and efforts to improve State and local coordination.

(c) The OSC is responsible for developing any Federal local contingency plans for the Federal response in the area of the OSC's responsibility. This may be accomplished in cooperation with the RRT and designated State and local representatives (see § 300.43). Boundaries for Federal regional contingency plans shall follow those of the Standard Regions for Federal

Administration. Boundaries for Federal local contingency plans shall coincide with those agreed upon between EPA, DOD and the USCG to determine OSC areas of responsibility and should be clearly indicated in the regional contingency plan.

(d) Scientific support for the development of regional and local plans is organized by appropriate agencies to provide special expertise and assistance. Generally, the Scientific Support Coordinator (SSC) for plans encompassing the coastal area will be provided by NOAA and those for the inland area will be provided by EPA or DOI. This delineation of responsibility may be modified within a region by agreement between DOC, DOI, and EPA representatives to the RRT. SSCs may be obtained from other agencies if determined to be appropriate by the RRT.

§ 300.33. Response operations.

(a) EPA and USCG shall designate OSCs for all areas in each region, subject to Executive Order 12316. The USCG will furnish or provide OSCs for oil discharges and for the immediate removal of hazardous substances, pollutants, or contaminants into or threatening the coastal zone except that the USCG will not provide predesignated OSCs for discharges and releases from hazardous waste management facilities or in similarly chronic incidents. EPA shall furnish or provide OSCs for oil discharges and hazardous substances releases into or threatening the inland zone and, unless otherwise agreed, for all planned removals and remedial actions.

(b) The OSC directs Federal Fund-financed response efforts and coordinates all other Federal efforts at the scene of a discharge or release. As part of the planning and preparation for response to pollution incidents, the OSCs shall be predesignated by the regional or district head of the lead agency.

(1) The first official from an agency with responsibility under this plan to arrive at the scene of the discharge or release should coordinate activities under this plan until the OSC arrives.

(2) The OSC shall to the extent practicable under the circumstances collect pertinent facts about the discharge or release, such as its source and cause; the existence of potentially responsibile parties; the nature, amount, and location of discharged or released materials; the probable direction and time of travel of discharged or released materials; the pathways to human exposure, potential impact on human health, welfare and safety; the potential impact on natural resources and property which may be affected; priorities for protecting human health, welfare and the environment; and appropriate cost documentation.

(3) The OSC will direct response operatons (see Subparts E and F for descriptive details). The OSC's effort shall be coordinated with other appropriate Federal, State, local, and private response agencies.

(4) The OSC will consult regularly with the RRT in carrying out this Plan and will keep the RRT informed of activities under the Plan.

(5) The OSC shall advise the appropriate State agency (as agreed upon with each State) as promptly as possible of discharges and releases.

(6) The OSC shall evaluate incoming information and immediately advise FEMA of potential major disaster situations.

(7) In those instances where a possible public health emergency exists, the OSC should notify the HHS representative to the RRT.

(8) All Federal agencies are required by Executive Orders 11735 and 12048 to develop emergency plans and procedures for dealing with oil discharges and releases of hazardous substances (designated under section 311(b)(2) of the CWA) from vessels and facilities under their jurisdiction. All Federal agencies, therefore, are responsible for designating the offices that can coordinate such incidents in accordance with this Plan and applicable Federal regulations and guidelines. If, in the opinion of the OSC, the responsible Federal agency does not act promptly or take appropriate action to respond to a discharge or release caused by a facility or vessels under its jurisdiction, the appropriate OSC (depending on the area where the discharge or release occurs) may conduct appropriate response activities. With respect to incidents on Department of Defense (DOD) facilities, the OSC shall be furnished by the DOD.

(9) In the event of a major disaster or emergency, under the Disaster Relief Act of 1974 (Pub. L. 93–288), the OSC will coordinate any response activities with the Federal Coordinating Officer designated by the President.

(10) The OSC is responsible for addressing worker safety concerns at a response scene.

(c) The National Strike Force (NSF) consists of the Strike Teams established by the USCG on the East, West and Gulf coasts and includes emergency task forces to provide assistance to the OSC.

(1) The Strike Teams can provide communication support, advice, and assistance for oil and hazardous substances removal. These teams also have knowledge of ship salvage, damage control, and diving. Additionally, they are equipped with specialized containment and removal equipment, and have rapid transportation available. When possible, the Strike Teams will train the emergency task forces and assist in the development of regional and local contingency plans.

(2) The Strike Teams provide assistance to the OSCs on request. Requests for a team may be made directly to the Commanding Officer of the appropriate team, the USCG member of the RRT, the appropriate USCG Area Commander, or Commandant of the USCG through the NRC.

(3) Emergency task forces consist of personnel trained to evaluate, monitor, and supervise pollution responses. Additionally, they have limited "first aid" response capability to deploy equipment prior to the arrival of a cleanup contractor.

(d) The ERT is established by EPA in accordance with its disaster and emergency responsibilities. The ERT includes expertise in biology, chemistry, hydrology, geology and engineering. It can provide access to special contamination equipment for chemical releases and advice to the OSC in hazard evaluation; risk assessment; multimedia sampling and analysis program; on-site safety, including development and implementation plans; cleanup techniques and priorities; water supply contamination and protection; application of dispersants; damage assessment and restoration of natural resources; degree of cleanup required; and disposal of contaminated material.

(1) The ERT also provides both introductory and intermediate level training courses to prepare response personnel.

(2) OSC or RRT requests for ERT support should be made to the EPA representative on the RRT, the EPA Headquarters, Director, Hazardous Response Support Division, or the appropriate EPA regional emergency coordinator.

(e) When requested by the OSC, the SSC shall serve as a member of the OSC's staff and assist the OSC in fulfilling responsibilities regarding damage assessment. The extent and nature of SSC involvement in the operational mode shall be determined by the OSC. The SSC may:

(1) Coordinate response from the scientific community to OSC requests for assistance and to requests from the OSC or trustees of the affected natural resources, as appropriate, for

performance of damage assessment investigation.

(2) Serve as the principal liaison for scientific advice from the scientific community to the OSC. The SSC shall ensure that differing scientific views within the scientific community are communicated to the OSC in a timely manner.

(3) The SSC will assist in responding to requests for assistance from State and Federal agencies regarding scientific studies, damage assessments, and natural resource restoration. Details on provision of access to scientific support shall be included in regional contingency plans.

(f)(1) The RRT may be activated by the Chairman as an emergency response team when a discharge or release:

(i) Exceeds the response capability available to the OSC in the place where it occurs;

(ii) Transects regional boundaries; or

(iii) May pose a substantial threat to the public health or welfare or to regionally significant amounts of property. Regional contingency plans shall specify detailed criteria for activation of RRTs.

(2) When the RRT is activated for an immediate removal action, the chairman shall be the representative of the lead agency. When the RRT is activated for a planned removal or remedial action, the chairman shall be the representative of EPA.

(3) The RRT is activated in the event of a major discharge or a major release. The RRT may be activated during any other pollution emergency by a request from any RRT representative to the chairman of the Team. Request for Team activation shall later be confirmed in writing. Each representative, or an appropriate alternate, should be notified immediately when the RRT is activated.

(4) During prolonged removal or remedial action, the RRT may not need to be activated or may need to be activated only in a limited sense during such actions, or have available only those members of the RRT who are directly affected by or can provide direct response assistance. When activated for a discharge or release, agency representatives should meet at the call of the chairman and may:

(i) Monitor and evaluate reports from the OSC. The RRT may advise the OSC on the duration and extent of Federal response and may recommend to the OSC specific actions to respond to the discharge or release.

(ii) Request other Federal, State or local governments, or private agencies to provide resources under their existing authorities to respond to a discharge or release or to monitor response operations.

(iii) Help the OSC prepare information releases for the public and for communication with the NRT.

(iv) If the circumstances warrant, advise the regional or district head of the agency providing the OSC that a different OSC should be designated.

(v) Submit Pollution Reports (POLREPS) to the NRC as significant developments occur.

(5) When the RRT is activated, affected States may participate in all RRT deliberations. State or local government representatives participating in the RRT have the same status as any Federal member of the RRT.

(6) The RRT can be deactivated by agreement between the EPA and USCG team members. The time of deactivation should be included in the POLREPS.

(g) The NRT may be activated as a emergency response team when an oil discharge or hazardous substance release:

(1) Exceeds the response capability of the region in which it occurs;

(2) Transects regional boundaries; or

(3) Involves significant population hazards or national policy issues, substantial amounts of property, or substantial threats to natural resources.

Also, when requested by any team representatives, the NRT may act as an emergency response team.

(h) When activated for a response action, the NRT shall meet at the call of the chairman and may:

(1) Monitor and evaluate reports from the OSC. The NRT may recommend to the OSC, through the RRT or otherwise, actions to combat the discharge or release.

(2) Request other Federal, State and local governments, or private agencies to provide resources under their existing authorities to combat a discharge or release or to monitor response operations.

(3) Coordinate the supply of equipment, personnel, or technical advice to the affected region from other regions or districts.

§ 300.34 Multi-regional responses.

(a) If a discharge or release or a substantial threat of a discharge or release moves from the area covered by one Federal local or Federal regional contingency plan into another area, the authority for pollution control actions should likewise shift. If a discharge or release or substantial threat of discharge or release affects areas covered by two or more regional plans, the response mechanism of both plans may be activated. In this case, pollution control actions of all regions concerned shall be fully coordinated as detailed in the regional plans.

(b) There should be only one OSC at any time during the course of a response operation. Should a discharge or release affect two or more areas, the EPA, USCG and DOD, as appropriate, should give prime consideration to the area vulnerable to the greatest damage. The RRT shall designate the OSC if EPA and USCG members are unable to agree on a designation. The NRT shall designate the OSC if members of one RRT or of two adjacent RRTs are unable to agree on the designation.

(c) Where the USCG has provided the OSC for emergency response to a release from a waste site located in the coastal zone, the responsibility for response action following the immediate removal action shall shift to EPA, in accordance with EPA/USCG agreements.

§ 300.35 Communications.

(a) The NRC is the national communications center for activities related to response actions. It is located at USCG Headquarters in Washington, D.C. The NRC receives and relays notices of discharges or releases to the appropriate OSC, disseminates OSC and RRT reports to the NRT when appropriate, and provides facilities for the NRT to use in coordinating a national response action when required.

(b) The Commandant, USCG, will provide the necessary communications, plotting facilities, and equipment.

(c) Notice of an oil discharge or a release of a hazardous substance or pollutant or contaminant should be made immediately in accordance with 33 CFR Part 153, Subpart B. Means of satisfying this requirement includes notification of the NRC Duty Officer, HQ USCG, Washington, D.C., telephone (800) 424–8802 (or current local telephone number), or notification to the predesignated OSC. All notices of discharges or releases received at the NRC should be relayed immediately by telephone to the OSC and State.

(d) Pollution Reports (POLREPS) Should be submitted by the RRT to the NRC as significant developments occur during response actions.

(e) Each regional plan will specify the location for the RRC. The RRC provides facilities and personnel for communications, information storage, and other requirements for coordinating response.

(f) The USCG Public Information Assist Team (PIAT) and the EPA Public Affairs Assist Team (PAAT), may help OSCs and regional or district offices

meet the demands for public information and participation during major responses.

§ 300.36 Response equipment.

The Spill Cleanup Inventory (SKIM) system is available to help OSCs and RRTs gain rapid information as to the location of response and support equipment. This inventory is accessible through the National Response Center (NRC) and USCG's OSCs. The inventory includes private and commercial equipment, as well as government resources. The RRTs and OSCs shall ensure that data in the system are current and accurate. The USCG is responsible for maintaining and updating the system with RRT and OSC input.

Subpart D—Plans

§ 300.41 Regional and local plans.

(a) In addition to the National Contingency Plan (NCP), a Federal regional plan shall be developed for each standard Federal region and a Federal local plan shall be developed for each area in which an On-Scene Coordinator (OSC) deems it necessary. In areas in which the USCG designates the OSC, such plans shall be developed in all cases.

(b) These plans will be available for inspection at EPA Regional Offices or USCG District Offices. Addresses and telephone numbers for these offices may be found in the United States Government Manual (issued annually) or in local telephone directories.

§ 300.42 Regional contingency plans.

(a) The RRTs, working with the States, should develop Federal regional plans for each standard Federal region. The purpose of these plans is coordination of a timely, effective response by various Federal agencies and other organizations to discharges of oil and releases of hazardous substances and releases of pollutants or contaminants in order to protect public health or welfare and the environment. Regional contingency plans should include information on all useful facilities and resources in the region, from government, commercial, academic and other sources. To the greatest extent possible, regional plans will follow the format of the National Contigency Plan.

(b) Regional Scientific Support Coordinators (SSCs) shall organize and coordinate the contributions of scientists of each region to the response activities of the OSC and RRT to the greatest extent possible. SSCs, with advice from RRT members, shall also develop the parts of the regional plan that relate to scientific support.

(c) Regional plans shall contain lines of demarcation between the inland and coastal zones, as mutually agreed upon by USCG and EPA.

§ 300.43 Local contingency plans.

(a) Each OSC shall maintain a Federal local plan for response in his or her area of responsibility, where practicable. In areas in which the USCG provides the OSC such plans shall be developed in all cases. The plan should provide for a well-coordinated response that is integrated and compatible with the pollution response, fire, emergency and disaster plans of local, State and other non-Federal entities. The plan should identify the probable locations of discharges or releases, the resources to respond to multi-media incidents, where such resources can be obtained, waste disposal methods and facilities consistent with local and State plans developed under the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), and a local structure for responding to discharge or releases. To the extent possible, Federal local plans will follow the format of the NCP.

(b) While the OSC is responsible for developing Federal local plans, a successful planning effort will depend upon the full cooperation of all the agencies' representatives and includes the development of local capabilities to respond to discharges or releases. Particular attention must be given, during the planning process, to developing a multi-agency local response team for coordinating on-scene efforts. The RRT should ensure proper liaison between the OSC and local representatives of RRT members.

Subpart E—Operational—Response Phases for Oil Removal

§ 300.51 Phase I—Discovery and notification.

(a) A discharge of oil may be discovered through:

(1) A report submitted by the responsible party in accordance with statutory requirements;

(2) Deliberate search by patrols; and

(3) Random or incidental observation by government agencies or the public.

(b) Reports of discharges should be made to the NRC or the nearest USCG or EPA office. All reports shall be promptly relayed to the NRC if not previously reported. Federal regional and Federal local plans shall provide for prompt reporting to the NRC, RRC, appropriate State agency (as agreed upon with the State), and the affected land manager or owner.

(c) Upon receipt of a notification of discharge the NRC shall promptly notify the OSC through the appropriate RRC. The OSC shall proceed with the following phases as outlined in Federal regional, and Federal local plans.

§ 300.52 Phase II—Preliminary assessment and initiation of action.

(a) The agency providing the OSC for a particular area is responsible for initiating an immediate preliminary assessment.

(b) The preliminary assessment shall be conducted using available information, supplemented where necessary and possible by an on-scene inspection. The OSC shall undertake actions to:

(1) Evaluate the magnitude and severity of the discharge or threat to public health and welfare and the environment;

(2) Assess the feasibility of removal; and

(3) Determine the existence of potential responsible parties.

(c) Oil pollution Fund-financed response shall not be initiated when:

(1) There is no discharge or threat of discharge; or

(2) A responsible person, or any other person (except a State), is providing appropriate response.

(d) The OSC in consultation with appropriate legal authorities shall make a reasonable effort to have the responsible party voluntarily and promptly perform removal actions. The OSC shall ensure adequate surveillance over whatever actions are initiated. If effective actions are not being taken to eliminate the threat, or if removal is not being properly done, the OSC will so advise the responsible party. If the responsible party does not take proper removal actions, or is unknown, or is otherwise unavailable, the OSC shall, pursuant to section 311(c)(1) of the CWA, determine whether authority for a Federal response exists, and, if so, take appropriate response actions. Where practicable, continuing efforts should be made to encourage response by responsible parties.

(e) The OSC shall ensure that the trustees of affected natural resources are notified, in order that the trustees may initiate appropriate actions, when natural resources have been or are likely to be damaged (see Subpart G).

§300.53 Phase III—Containment, countermeasures, cleanup, and disposal.

(a) Defensive actions should begin as soon as possible to prevent, minimize, or mitigate damage to the public health or welfare or the environment. Actions

may include: Analyzing water samples to determine the source and spread of the pollutant; controlling the source of discharge; measuring and sampling; damage control or salvage operations; placement of physical barriers to deter the spread of pollution or to protect endangered species; control of the water discharged from upstream impoundment; and the use of chemicals and other materials in accordance with Subpart H, to restrain the spread of the pollutant and mitigate its effects.

(b) Appropriate actions should be taken to recover the pollutant or mitigate its effects. Of the numerous chemical and physical methods that may be used, the chosen methods should be the most consistent with protecting the public health and welfare and the environment.

(c) Pollutants and contaminated materials recovered in cleanup operations shall be disposed of in accordance with Federal regional and Federal local contingency plans.

§ 300.54 Phase IV—Documentation and Cost Recovery.

(a) Documentation shall be collected and maintained to support all actions taken under the CWA and to form the basis for cost recovery. In general, documentation should be sufficient to prove the source and circumstances of the incident, the responsible party or parties, and impacts and potential impacts to the public health and welfare and the environment. When appropriate, documentation should also be collected for scientific understanding of the environment and for the research and development of improved response methods and technology. Damages to private citizens (including loss of earnings) are not addressed by this Plan. Evidentiary and cost documentation procedures and requirements are specified in the USCG directive CG–495 and 33 CFR Part 153.

(b) The OSC shall ensure the necessary collection and safeguarding of information, samples, and reports. Samples and information must be gathered expeditiously during the response to ensure an accurate record of the impacts incurred. Documentation materials shall be made available to the trustees of affected natural resources where practicable.

(c) Information and reports obtained by the OSC shall be transmitted to the RRC which will forward copies to the NRC, RRT members, and others as appropriate.

§ 300.55 General pattern of response.

(a) When the OSC receives a report of a discharge, actions normally should be taken in the following sequence:

(1) Immediately notify the RRC and NRC when the reported incident is an actual or potential major incident.

(2) Investigate the report to determine pertinent information such as the threat posed to public health or welfare, or the environment, the type and quantity of polluting material, and the source of the discharge.

(3) Notify RRT members, Scientific Support Coordinator, and the trustees of affected natural resources, in accordance with the applicable regional plan.

(4) Determine whether the "responsible party" is properly carrying out removal. Removal is being done properly when:

(i) The cleanup is fully sufficient to minimize or mitigate damage to the public welfare (removal efforts are "improper" to the extent that Federal efforts are necessary to prevent further damage).

(ii) The removal efforts are in accordance with applicable regulations and guidelines, including this Plan.

(5) Officially classify the size of the incident and determine the course of action to be followed.

(6) Determine whether a State or political subdivision has the capability to carry out response actions and a contract or cooperative agreement has been established with the appropriate fund administrator for this purpose.

(b) The preliminary inquiry will probably show that the situation falls into one of five classes. These classes and the appropriate response to each are outlined below:

(1) If the investigation shows that no discharge exists, the case shall be considered a false alarm and should be closed.

(2) If the investigation shows a minor discharge with the responsible party taking appropriate removal action, contact should be established with the party. The removal action should be monitored to ensure continued proper action.

(3) If the investigation shows a minor discharge with improper removal action being taken, the following measures shall be taken;

(i) An immediate effort should be made to stop further pollution.

(ii) The responsible party shall be so advised of what action will be considered appropriate.

(iii) If the responsible party does not properly respond, he shall be notified of his potential liability for Federal response performed under the Act. This liability includes all costs of removal and may include the costs of assessing and restoring damaged natural resources and other actual or necessary costs of a Federal response.

(iv) The OSC shall notify appropriate State and local officials, keep the RRT advised and initiate Phase III operations as conditions warrant.

(v) Information shall be collected for possible recovery of response costs in accordance with § 300.54.

(4) When the investigation shows that an actual or potential medium pollution incident exists, the OSC shall follow the same general procedures as for a minor discharge. If appropriate, the OSC shall recommend activation of the Regional Response Team.

(5) When the investigation shows an actual or potential major pollution incident, the OSC shall follow the same procedures as for minor and medium discharges and, in addition, shall immediately notify the RRC and NRC.

§ 300.56 Pollution reports.

(a) Within 60 days after the conclusion of a major pollution incident and when requested by the RRT, the OSC shall submit to the RRT a complete report on the response operation and the actions taken. The OSC shall at the same time send a copy of the report to the NRT. The RRT shall review the OSC's report and prepare an endorsement to the NRT for review. This shall be accomplished within 30 days after the report has been received.

(b) The OSC's report shall accurately record the situation as it developed, the actions taken, the resources committed and the problems encountered. The OSC's recommendations are a source for new procedures and policy.

(c) The format for the OSC's report will be as follows:

(1) Summary of Events—A chronological narrative of all events, including:

(i) The cause of the incident;

(ii) The initial situation;

(iii) Efforts to obtain response by response by responsible parties;

(iv) The organization of the response; and

(v) The resources committed.

(vi) The location (water body, State, city, latitude and longitude) of the oil spill; whether the discharge was in connection with activities regulated under the Outer Continental Shelf Lands Act (OCSLA), the Trans-Alaska Pipeline Authority Act or Deepwater Port Act; or whether it might have or actually did affect natural resources under the

exclusive management authority of the United States.

(vii) Comments on Federal or State efforts to replace or restore damaged natural resources and damage assessment activities.

(viii) Details of any threat abatement actions taken under sections 311(c) or (d) of the CWA.

(2) Effectiveness of Removal Actions—A candid and thorough analysis of the effectiveness of removal actions taken by:

(i) The responsible party;

(ii) State and local forces;

(iii) Federal agencies and special forces; and

(iv) (if applicable) contractors, private groups and volunteers.

(3) Problems Encountered—A list of problems affecting response with particular attention to problems of intergovernmental coordination.

(4) Recommendations—OSC recommendations, including at a minimum:

(i) Means to prevent a recurrence of the incident;

(ii) Improvement of response actions;

(iii) Any recommended changes in the National Contingency Plan or Federal regional plan.

§ 300.57 Special considerations.

(a) Safety of Personnel—The OSC should be aware of threats to human health and safety and shall ensure that persons entering the response area use proper pecautions, procedures, and equipment and that they posses proper training. Federal local plans shall identify sources of information on anticipated hazards, precautions, and requirements to protect personnel during response operations. Names and phone numbers of people with relevant information shall be included. Responsibility for the safety of all Federal employees rests with the heads of their agencies. Accordingly, each Federal employee on the scene must be apprised of and conform with OSHA regulations and others deemed necessary by the OSC. All private contractors who are working on-site must be fully informed of applicable provisons of the Occupational Safety and Health Act and standards deemed necessary by the OSC, and be required to conform with them.

(b) Waterfowl Conservation—The DOI representative and the State liaison to the RRT shall arrange for the coordination of professional and volunteer groups permitted and trained to participate in waterfowl dispersal, collection, cleaning, rehabilitation and recovery activities. Federal regional and Federal local plans will, to the extent practicable, identify organizations or institutions that are permitted to participate in such activities and operate such facilities. Waterfowl conservation activities will normally be included in Phase III response actions § 300.53 of this subpart).

§ 300.58 Funding.

(a) If the person responsible for the discharge does not act promptly or take proper removal actions, or if the person responsible for the discharge is unknown, Federal discharge removal actions may begin under section 311(c)(1) of the CWA. The discharger, if known, is liable for the costs of Federal removal in accordance with section 311(f) of the CWA and other Federal law.

(b) Actions undertaken by the participating agencies in response to pollution shall be carried out under existing programs and authorities when available. This Plan intends that Federal agencies will make resources available, expend funds, or participate in response to oil discharges under their existing authority. Authority to expend resources will be in accordance with agencies' basic statutes and, if required, through interagency agreements. Specific interagency reimbursement agreements may be signed when necessary to ensure that the Federal resources will be available for a timely response to a discharge of oil. The ultimate decison as to the appropriateness of expending funds rests with the agency that is held accountable for such expenditures.

(c) The oil pollution fund, administered by Commandant, USCG, has been established pursuant to section 311(k) of the CWA. Regulations governing the administration and use of the fund are contained in 33 CFR Part 153. The OSC shall exercise sufficient control over removal operations to be able to certify that reimbursement from the fund is appropriate.

(d) Response actions, other than removal, such as scientific investigations not in support of removal actions or law enforcement, shall be provided by the agency with legal responsibility for those specific actions.

(e) The funding of a response to a discharge from a Federally operated or supervised facility or vessel is the responsibility of the operating or supervising agency.

(f) The following agencies have funds available for certain discharge removal actions:

(1) The EPA may provide funds to begin timely discharge removal actions when the OSC is an EPA representative.

(2) The USCG pollution control efforts are funded under "operating expenses." These funds are used in accordance with agency directives.

(3) The Department of Defense has two specific sources of funds which may be applicable to an oil discharge under appropriate circumstances. (This does not consider military resources which might be made available under specific conditions.)

(i) Funds required for removal of a sunken vessel or similar obstruction of navigation are available to the Corps of Engineers through Civil Functions Appropriations, Operations and Maintenance, General.

(ii) The U.S. Navy has funds available on a reimbursable basis to conduct salvage operations.

(4) Certain emergency response activities of State and local governments under this Plan may qualify for reimbursement as a "major disaster" or an "emergency." The President may allocate funds from the Disaster Relief Act (Pub. L. 93–288, as amended), managed by FEMA. FEMA may make financial assistance available to State and local governments and certain private, non-profit organizations for debris removal, emergency protective measures, and repairs and restoration of public facilities. The Director of FEMA may also direct and reimburse Federal agencies to perform disaster-related work for State and local governments which do not have the capability to respond on their own. (See 44 CFR Part 205.)

(5) Pursuant to section 311(c)(2)(H) of the CWA, the State or States affected by a discharge of oil, may act where necessary to remove such discharge and may, pursuant to 33 CFR Part 153, be reimbursed from the pollution revolving fund for the reasonable costs incurred in such a removal.

(i) Removal by a State is necessary within the meaning of section 311(c)(2)(H) of the Act when the OSC determines that the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs cannot effect removal properly and that:

(A) State action is required to minimize or mitigate significant damage to the public health or welfare which Federal action cannot minimize or mitigate, or

(B) Removal or partial removal can be done by the State at a cost which is less than or not significantly greater than the cost which would be incurred by the Federal departments or agencies.

(ii) State removal actions must be in compliance with the Plan in order to qualify for reimbursement.

(iii) State removal actions are considered to be Phase III actions, under

the same definitions applicable to Federal agencies.

(iv) Actions taken by local government in support of Federal discharge removal operations are considered to be actions of the State for purpose of this section. Federal regional and Federal local plans shall show what funds and resources are available from participating agencies under various conditions and cost arrangements. Interagency agreements may be necessary to specify when reimbursement is required.

Subpart F—Hazardous Substance Response

§ 300.61 General.

(a) This subpart establishes methods and criteria for determining the appropriate extent of response authorized by CERCLA when any hazardous substance is released or there is a substantial threat of such a release into the environment, or there is a release or substantial threat of a release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health, welfare, or the environment.

(b) Section 104(a)(1) of CERCLA authorizes removal or remedial action unless it is determined that such removal and remedial action will be done properly by the owner or operator of the vessel or facility from which the release or threat of release emanates, or by any other responsible party.

(c) In determining the need for and in planning or undertaking Fund-financed action, response personnel should, to the extent practicable, consider the following:

(1) Encourage State participation in response actions.

(2) Conserve Fund monies by encouraging private party cleanup.

(3) Keep the local community informed.

(4) Rely on established technology when feasible and cost-effective.

(5) Encourage the participation and sharing of technology by industry and other experts.

§ 300.62 Phase I—Discovery or notification.

(a) A release may be discovered through:

(1) Notification in accordance with sections 103(a), (b) or (c) of CERCLA;

(2) Investigation by government authorities conducted in accordance with section 104(e) of CERCLA or other statutory authority;

(3) Notification of a release by a Federal or State permit holder when required by its permit;

(4) Inventory efforts or random or incidental observation by government agencies or the public;

(5) Other sources.

(b) If not reported previously, a release should be promptly reported to the NRC. The NRC shall convey the notification expeditiously to appropriate government agencies, and in the case of notices received pursuant to section 103(a) the NRC shall notify the Governor of any affected State and the appropriate State agency as agreed upon by the State.

(c) Upon receipt of a notification of a release, the NRC shall promptly notify the appropriate OSC.

§ 300.63 Phase II—Preliminary assessment.

(a) A preliminary assessment of a release identified for possible CERCLA response should be undertaken by the lead agency. If the reported release potentially requires immediate removal, the preliminary assessment should be done as promptly as possible. Other releases shall be assessed as oon as practicable considering priorities. The lead agency should base its assessment on readily available information. This assessment may include:

(1) Evaluation of the magnitude of the hazard;

(2) Identification of the source and nature of the release;

(3) Determination of the existence of a non-Federal party or parties ready, willing, and able to undertake a proper response; and

(4) Evaluation of factors necessary to make the determination of whether immediate removal is necessary.

(b) A preliminary assessment of releases from hazardous waste management facilities may include data such as site management practices, information from generators, photographs, analysis of historical photographs, literature searches, and personal interviews conducted as appropriate. In addition, a perimeter (off-site) inspection may be necessary to determine the potential for a release. Finally, if more information is needed, and if sophisticated safety equipment is not needed, a site visit may be performed.

(c) A preliminary assessment should be terminated when the OSC determines:

(1) There is no release;

(2) The source is neither a vessel nor a facility;

(3) The release involves neither a hazardous substance, nor a pollutant or contaminant that may pose an imminent and substantial danger to public health or welfare;

(4) The amount released does not warrant Federal response;

(5) A party responsible for the release, or any other person, is providing appropriate response, and on-scene monitoring by the government is not recommended or approved by the lead agency; or

(6) The assessment is completed.

§ 300.64 Phase III—Immediate removal.

(a) In determining the appropriate extent of action to be taken at a given release the lead agency shall first review the preliminary assessment to determine if immediate removal action is appropriate. Immediate removal action shall be deemed appropriate in those cases in which the lead agency determines that the initiation of immediate removal action will prevent or mitigate immediate and significant risk of harm to human life or health or to the environment from such situations as:

(1) Human, animal, or food chain exposure to accutely toxic substances.

(2) Contamination of a drinking water supply;

(3) Fire and/or explosion; or

(4) Similarly acute situations.

(b) If the lead agency determines that immediate removal is appropriate, defensive actions should begin as soon as possible to prevent or mitigate danger to the public health, welfare, or the environment. Actions may include, but are not limited to:

(1) Collecting and analyzing samples to determine the source and dispersion of the hazardous substance and documenting those samples for possible evidentiary use.

(2) Providing alternative water supplies.

(3) Installing security fencing or other measures to limit access.

(4) Controlling the source of release.

(5) Measuring and sampling.

(6) Moving hazardous substances off-site for storage, destruction, treatment, or disposal provided that the substances are moved to a facility that is in compliance with subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

(7) Placing physical barriers to deter the spread of the release.

(8) Controlling the water discharge from an upstream impoundment.

(9) Temporarily evacuating threatened individuals not otherwise provided for.

(10) Using chemicals and other materials in accordance with Subpart H

to restrain the spread of the pollutant and to mitigate its effects.

(11) Executing damage control or salvage operations.

(c) Immediate removal actions are complete when, in the opinion of the lead agency, the criteria in subsection (a) of § 300.64 are no longer met and any contaminated waste materials have been treated or disposed of properly.

(d) If the lead agency determines that the release still may require planned removal or remedial action, the lead agency or a State may initiate, either simultaneously or sequentially, Phase IV or V, as appropriate.

§ 300.65 Phase IV—Evaluation and determination of appropriate response—planned removal and remedial action.

(a) The purpose of this phase is to determine the appropriate action when the preliminary assessment indicates that planned removal or remedial action may be necessary or when the OSC requests and the lead agency concurs that planned removal or remedial action should follow an immediate removal action.

(b) Pursuant to sections 104(b) and (e) of CERCLA, the responsible official may undertake investigations, monitoring, surveys, testing and other information gathering as appropriate. These efforts shall be undertaken jointly by the Federal or State officials responsible for providing Fund-financed response and those responsible for enforcing legal requirements. These coordination procedures shall be specified as appropriate in any contract or cooperative agreement with States.

(c) As soon as practicable, an inspection will be undertaken to assess the nature and extent of the release and its priority for Fund-financed response. A major objective of an inspection is to determine if there is any immediate danger to persons living or working near the facility. In general, the collection of samples should be minimized during inspection activities; however, situations in which there is an apparent risk to the public should be treated as exceptions to that practice. Examples of apparent risk include use of nearby wells for drinking water, citizen complaints of unusual taste or odor in drinking water, or chemical odors or unusual health problems in the vicinity of the release. Under those circumstances, a sampling protocol should be developed for the inspection to allow for the earliest possible detection of any human exposure to hazardous substances. The site inspection may also address:

(1) Determining the need for immediate removal or other emergency measures;

(2) Assessing amounts, types, and locations of hazardous substances stored;

(3) Assessing potential for substances to migrate from areas where they were originally located;

(4) Determining or documenting immediate threats to the public or environment.

(d) Methods for Listing Priorities—States that wish to have their priority lists considered for inclusion in the National Priority List must use the Hazard Ranking System to establish State priorities for adequately investigated, known, or potential releases and must furnish EPA with the scores. Detailed methods and criteria for ranking hazardous substance releases are included in "A Model for Determining Priorities Among Hazardous Substance Releases." The publication contains detailed direction for assigning value to ranking factors, worksheets, and the rationale behind the model. The model is available upon request from the Hazardous Site Control Division (WH–548–E), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

(e) State Priority Submissions—States that wish to have their priority candidates considered for inclusion in the National Priority List must furnish a list of these releases to the appropriate EPA Regional Office. The list will include a listing of the most serious releases located in the State in order of priority and a summary of all data pertinent to establishing the seriousness of threat among high priority facilities. In addition, the list will indicate, for each release ranked: Whether a responsible party exists; whether the State intends to take enforcement action against the responsible party; the next response phase to be undertaken; an estimate of the cost of that phase; and an estimate of the total cost of the response. As part of the list, the State will indicate in a letter of intent either its ability to make the assurances required by section 104(c)(3) of the Act or its intention to make those assurances at the appropriate time. Briefly, the State will:

(1) Assure the future maintenance of the response actions provided;

(2) Assure the availability of a hazardous waste disposal facility in compliance with Subtitle C of the Solid Waste Disposal Act for any necessary off-site disposal of hazardous waste; and

(3) Assure payment or pay 10 percent of the costs of the remedial action (or at least 50 percent, if the facility was owned at the time of release by the State or by a political subdivision). The letter of intent should also contain the State's schedule for entering into a cooperative agreement or contract with EPA for responses at any or all releases in the priority plan. Finally, the State may, at its discretion, designate in its priority plan the highest ranked release which the State believes requires federally funded remedial action and which should be included on the national priority list of one hundred.

(f) National Priority List—(1) Consolidation of State and Regional Lists—The EPA Regional Offices will review State hazard rankings to ensure uniform application of the hazard ranking system and will add, in consultation with the States, any additional priority releases known to EPA. The State priorities will be reviewed and consolidated by EPA Headquarters into a National Priority List.

(2) Grouping of Releases—Similar scores cannot accurately differentiate risks at their associated releases. Thus, in order to avoid misleading the public that real differences in risk exist, similar scores may be grouped. Releases within any group will be listed alphabetically. The EPA may treat all releases listed within a group as identical in risk when considering response activities.

(3) The EPA will submit the recommended National Priority List to the NRT for review and comment.

§ 300.66 Phase V—Planned removal.

(a) With the lead agency's approval, planned removal may be undertaken when a release is listed as a national prirority pursuant to the Hazard Ranking System or at an unranked release when there are conditions that may result in a release requiring immediate removal.

(b) Planned removals may be taken only if the lead agency determines that:

(1) There will be a substantial cost-savings by proceeding with the planned removal in lieu of remedial action;

(2) A limited action is needed to minimize and mitigate damages and exposure that otherwise would occur;

(3) The State provides adequate assurance that it will provide at least 10 percent of project expenses and that the release will be submitted as a priority by the State for inclusion in the next revision of the National Priority List; and

(4) The action will minimize and mitigate damages without relying on future response actions.

(c) A planned removal should emphasize actions which are consistent with any subsequent remedial activities that may be necessary to further mitigate or eliminate the release of substances in question.

(d) Responsible officials may undertake or request (consistent with delegations in Executive Order 12316) any actions authorized under section 104(b) of CERCLA when taking a planned removal action.

(e) Pollution reports (POLREPS) for planned removal releases of hazardous substances shall be submitted in accordance with requirements established for discharges of oil under § 300.56.

(f) Planned removal shall be terminated after $1,000,000 has been obligated for the action or six months has elasped from the date of initial response to a release or threatened release of hazardous substances unless it is determined that:

(1) Continued response actions are immediately required to prevent, limit, or mitigate an emergency,

(2) There is an immediate risk to public health or welfare or the environment, and

(3) Such assistance will not otherwise be provided on a timely basis.

§ 300.67 Phase IV—Remedial action.

(a) Remedial actions are those reponses to releases on the National Priority List that require longer-term and possibly more expensive efforts to prevent or mitigate the migration of a release of hazardous substances.

(b) Pursuant to section 104(c)(3) of CERLCA, before any Fund-financed remedial action may be taken, the affected State(s) must enter into a contract or cooperative agreement with the Federal Government. EPA also shall consult with the affected State or States in determining an appropriate remedial action.

(c) As an alternative or in addition to Fund-financed remedial action, the lead agency may seek, through voluntary agreement or administrative or judicial process, to have those persons responsible for the release clean up in a manner that effectively mitigates and minimizes damage to and provides adequate protection of public health, welfare, and the environment. The lead agency shall evaluate the adequacy of cleanup proposals submitted by responsible parties or determine the level of cleanup to be sought through enforcement efforts, by consideration of the factors discussed in paragraphs (e) through (j) below. The lead agency will not, however, apply the cost balancing considerations discussed in (k) of this section to determine the appropriate extent of responsible party cleanup.

(d) A remedial investigation should be undertaken by the lead agency (or responsible party if the responsible party will be developing a cleanup proposal) to determine the nature and extent of the problem presented by the release. This includes sampling and monitoring, as necessary, and includes the gathering of sufficient information to determine the necessity for and proposed scope of remedial action.

(e) In some instances, initial remedial measures can and should begin before final selection of an appropriate remedial action if such measures are determined to be feasible and necessary to limit exposure or threat of exposure to a significant health or environmental hazard and if such measures are cost-effective. Compliance with § 300.67(b) is a prerequisite to taking initial remedial measures. The following factors should be used in determining whether initial remedial measures are appropriate:

(1) Actual or potential direct contact with hazardous substances by nearby population. (Measures might include fences and other security precautions.)

(2) Absence of an effective drainage control system (with an emphasis on run-on control). (Measures might include drainage ditches.)

(3) Séverely contaminated drinking water at the tap. (Measures might include the temporary provision of an alternative water supply.)

(4) Hazardous substances in drums, barrels, tanks, or other bulk storage containers, above surface. (Measures might include transport of drums off-site.)

(5) Highly contaminated soils largely at or near surface, posing a serious threat to public health. (Measures might include temporary capping or removal of highly contaminated soils from drainage areas.)

(6) Substantial threat of fire or explosion or of serious public health hazard. (Measures might include security or drum removal.)

(7) Weather conditions that may cause substances to migrate posing serious health hazards. (Measures might include stabilization of berms, dikes or impoundments.)

(f) Identification of Appropriate Type of Remedy. Based on information gathered during the remedial investigation, the lead agency shall determine the nature of the threat to public health, welfare, or the environment and assess whether the threat can be mitigated and minimized by controlling the source of the contamination at or near the area where the hazardous substances were originally located (source control remedial actions) or whether additional actions will be necessary because the hazardous substances have migrated from the area of their original location (off-site remedial actions).

(1) Source control remedial actions may be appropriate if a substantial concentration of hazardous substances remain at or near the area where they were originally located and inadequate barriers exist to retard migration of substances into the environment. Source control remedial actions are not appropriate if all substances have migrated from the area where originally located or if the lead aency determines that the substances are adequately contained. Source control remedial actions may include alternatives to contain the hazardous substances where they are located or eliminate potential contamination by transporting the hazardous substances to a new location. The following criteria should be assessed in determining whether and what type of source control remedial actions should be considered:

(i) The extent to which substances pose a danger to public health, welfare, or the environment. Factors which should be considered in assessing this danger include:

(A) Population at risk;

(B) Amount and form of the substance present;

(C) Hazardous properties of the substances;

(D) Hdydrogeological factors (e.g. soil permeability depth to saturated zone, hydrologic gradients, proximity to a drinking water aquifer); and

(E) Climate (rainfall, etc.).

(ii) The extent to which substances have migrated or are contained by either natural or man-made barriers.

(iii) The experiences and approaches used in similar situations by State and Federal agencies and private parties.

(iv) Environmental effects and welfare concerns.

(2) In some situations it may be appropriate to take action (referred to as off-site remedial actions) to minimize and mitigate the migration of hazardous substances and the effects of such migration. These actions may be taken when the lead agency determines that source control remedial actions may not effectively mitigate and minimize the threat and there is a significant threat to public health, welfare, or the environment. These situations typically will result from contamination that has migrated beyond the area where the hazardous substances were originally located. Off-site measures may include provision of permanent alternative

water supplies, management of a drinking water aquifer plume or treatment of drinking water aquifers. The following criteria should be used in determining whether and what type of off-site remedial actions should be considered:

(i) Contribution of the contamination to an air, land or water pollution problem.

(ii) The extent to which the substances have migrated or are expected to migrate from the area of their original location and whether continued migration may pose a danger to public health, welfare or environment.

(iii) The extent to which natural or man-made barriers currently contain the hazardous substances and the adequacy of the barriers.

(iv) The factors listed in paragraph (f)(1)(i).

(v) The experiences and approaches used in similar situations by State and Federal agencies and by private parties.

(vi) Environmental effects and welfare concerns.

(g) Development of Alternatives. A limited number of alternatives should be developed for either source control or off-site remedial actions (or both) depending upon the type of response that has been identified under paragraph (f) as being appropriate. Where appropriate, one alternative should be a no-action alternative. No action alternatives are appropriate, for example, when action may cause a greater environmental or health danger than no action or when there is no appropriate engineering solution. These alternatives should be developed based upon the assessment conducted under paragraph (f) and reflect the types of source control or off-site remedial actions determined to be appropriate under paragraph (f).

(h) Initial Screening of Alternatives. The alternatives developed under paragraph (g) will be subjected to an initial screening to narrow the list of potential remedial actions or further detailed analysis. Three broad criteria should be used in the initial screening of alternatives:

(1) Cost. For each alternative, the cost of installing or implementing the remedial action must be considered, including operation and maintenance costs. An alternative that far exceeds (e.g. by an order of magnitude) the costs of other alternatives evaluated should usually be excluded from further consideration.

(2) Effects of the Alternative. The effects of each alternative should be evaluated in two ways: (i) Whether the alternative itself or its implementation has any adverse enviromental effects; and (ii) for source control remedial actions, whether the alternative is likely to achieve adequate control of source material, or for off-site remedial actions, whether the alternative is likely to effectively mitigate and minimize the threat of harm to public health, welfare or the environment. If an alternative has significant adverse environmental effects, it should be excluded from further consideration. Only those alternatives that effectively contribute to protection of public health, welfare, or the environment should be considered further.

(3) Acceptable Engineering Practices. Alternatives must be feasible for the location and conditions of the release, applicable to the problem, and represent a reliable means of addressing the problem.

(i) Detailed Analysis of Alternatives.

(1) A more detailed evaluation will be conducted of the limited number of alternatives that remain after the initial screening in (h).

(2) The detailed analysis of each alternative should include:

(i) Refinement and specification of alternatives in detail, with emphasis on use of established technology;

(ii) Detailed cost estimation, including distribution of costs over time;

(iii) Evaluation in terms of engineering implementation, or constructability; and

(iv) An analysis of any adverse environmental impacts, methods for mitigating these impacts, and costs of mitigation.

(3) In performing the detailed analysis of alternatives, it may be necessary to gather additional data in order to complete the analysis.

(j) The appropriate extent of remedy shall be determined by the lead agency's selection of the remedial alternative which the agency determines is cost-effective (i.e. the lowest cost alternative that is technologically feasible and reliable) and which effectively mitigates and minimizes damage to and provides adequate protection of public health, welfare, or the environment.

(k) Section 104(c)(4) of CERCLA requires that the need for protection of public health, welfare and the environment, be balanced against the amount of money available in the Fund to respond to releases under consideration and the need to respond to other releases. Accordingly, in determining the appropriate extent of remedy for Fund-financed response the lead agency also must consider the need to respond to other releases with Fund monies.

§ 300.68 Phase VII—Documentation and cost recovery.

(a) During all phases, documentation shall be collected and maintained to support all actions taken under this plan, and to form the basis for cost recovery. In general, documentation should be sufficient to provide the source and circumstances of the condition, the identity of responsible parties, accurate accounting of Federal costs incurred, and impacts and potential impacts to the public health, welfare, and environment.

(b) The information and reports obtained by the lead agency should be transmitted to the RRC. Copies can then be forwarded to the NRT, members of the RRT, and others as appropriate.

§ 300.69 Methods of remedying releases.

(a) The following section lists methods for remedying releases that may be considered by the lead agency in taking response action. This list of methods should not be considered inclusive of all possible methods of remedying releases.

(b) Engineering Methods for On-site Actions.

(1) Control and containment actions.

(i) Air emissions control—The control of volatile gaseous compounds should address both lateral movement and atmospheric emissions. Before gas migration controls can be properly installed, field measurements to determine gas concentrations, pressures, and soil permeabilities should be used to establish optimum design for control. In addition, the types of hazardous substances present, the depth to which they extend the nature of the gas and the subsurface geology of the release area should, if possible, be determined. Typical emission control techniques include the following:

(A) Pipe vents;

(B) Trench vents;

(C) Gas barriers;

(D) Gas collection systems.

(ii) Surface water controls—These are remedial techniques designed to reduce waste infiltration and to control runoff at release areas. They also serve to reduce erosion and to stabilize the surface of covered sites. These types of control technologies are usually implemented in conjunction with other types of controls such as the elimination of ground water infiltration and/or waste stabilization, etc. Technologies applicable to surface water control include the following:

(A) Surface seals;

(B) Surface water diversion and collection systems;

(*1*) Dikes and berms;

(2) Ditches, diversions, waterways;
(3) Chutes and downpipes;
(4) Levees;
(5) Seepage basins and ditches;
(6) Sedimentation basins and ponds;
(7) Terraces and benches;
(C) Grading;
(D) Revegetation.

(iii) Ground water controls—Ground water pollution is a particularly serious problem because once an aquifer has been contaminated, the resource cannot usually be cleaned without the expenditure of great time, effort and resources. Techniques that can be applied to the problem with varying degrees of success are as follows:

(A) Impermeable barriers;
(1) Slurry walls;
(2) Grout curtains;
(3) Sheet pilings;
(B) Permeable treatment beds;
(C) Ground water pumping;
(1) Water table adjustment;
(2) Plume containment.
(D) Leachate control—Leachate control systems are applicable to control of surface seeps and seepage of leachate to ground water. Leachate collection systems consist of a series of drains which intercept the leachate and channel it to a sump, wetwall, treatment system, or appropriate surface discharge point. Technologies applicable to leachate control include the following:
(1) Subsurface drains;
(2) Drainage ditches;
(3) Liners.

(iv) Contaminated water and sewer lines—Sanitary sewers and municipal water mains located down gradient from hazardous waste disposal sites may become contaminated by infiltration of leachate or polluted ground water through cracks, ruptures, or poorly sealed joints in piping. Technologies applicable to the control of such contamination to water and sewer lines include:

(A) Grouting;
(B) Pipe relining and sleeving;
(2) Treatment Technologies.

(i) Gaseous emissions treatment—Gases from waste disposal sites frequently contain malodorous and toxic substances, and thus require treatment before release to the atmosphere. There are two basic types of gas treatment systems:

(A) Adsorption by vapor phase carbon;
(B) Thermal oxidation.

(ii) Direct waste treatment methods—In most cases, these techniques can be considered long-term permanent solutions. Many of these direct treatment methods are not fully developed and the applications and process reliability are not well demonstrated. Use of these techniques for waste treatment may require considerable pilot plant work. Technologies applicable to the direct treatment of wastes are:

(A) Biological methods;
(1) Treatment via modified conventional wastewater treatment techniques;
(2) Anaerobic, aerated and facultative lagoons;
(3) Rotating biological disks;
(B) Chemical methods;
(1) Chlorination;
(2) Precipatation, flocculation, sedimentation;
(3) Neutralization;
(4) Equalization;
(C) Physical methods;
(1) Air stripping;
(2) Carbon adsorption;
(3) Ion exchange;
(4) Reverse osmosis;
(5) Permeable bed treatment;
(6) Wet air oxidation;
(7) Incineration.

(iii) Contaminated soils and sediments—In some cases where it can be shown to be cost-effective, contaminated sediments and soils will be treated on the site. Technologies available include:

(A) Incineration;
(B) Wet air oxidation;
(C) Solidification;
(D) Encapsulation;
(E) In situ treatment;
(1) Solution mining, (soil washing or soil flushing);
(2) Neutralization / detoxification;
(3) Microbiological degradation;

(c) Off-site Transport for Storage, Treatment, Destruction or Secure Disposition.

(1) General—Offsite transport or storage, treatment, destruction, or secure disposition offsite may be provided in cases where EPA determines that such actions:

(i) Are more cost-effective than other forms of remedial action,

(ii) Will create new capacity to manage, in compliance with Subtitle C of the Solid Waste Disposal Act, hazardous substances in addition to those located at the affected facility, or

(iii) Are necessary to protect public health, welfare, or the environment from a present or potential risk which may be created by further exposure to the continued presence of such substances or materials.

(2) Contaminated soils and sediments may be removed from the site. Technologies used to remove contaminated sediments on soils:

(i) Excavation;
(ii) Hydraulic dredging;
(iii) Mechanical dredging.

(d) Provision of Alternate Water Supplies. Alternative water supplies can be provided in several ways:

(1) Provision of individual treatment units;
(2) Provision of water distribution system;
(3) Provisions of new wells in a new location or deeper wells;
(4) Provision of cisterns;
(5) Provision of bottled water;
(6) Provision of upgraded treatment for existing distribution systems.

(e) Relocation—Permanent relocation of residents, businesses, and community facilities may be provided where it is determined that human health is in danger and that, alone or in combination with other measures, relocation would be cost effective and environmentally preferable to other remedial response.

§ 300.70 Special considerations.

(a) Worker health and safety. (1) Lead agency personnel should be aware of hazards due to release of hazardous material to human health and safety and exercise great caution in allowing civilian or government personnel into an affected area until the nature of the discharge or release has been ascertained. In accord with section 301(f) of CERCLA, which requires a study of provisions for the protection of the health and safety of employees involved in response actions, the OSC shall provide EPA, DOT (USCG), OSHA, and NIOSH with an assessment of the effectiveness of measures taken to protect the health and welfare of workers at any removal or remedial operation. This assessment will be provided in accord with applicable Agency directive and should include recommendations for protective actions to be taken at subsequent removal or remedial operations. These recommendations will be considered by EPA, USCG, OSHA, and NIOSH in drafting modifications to this Plan. In the interim, OSCs shall use the Interim Standard Operating Safety Procedures issued by EPA as guidance.

(2) Local contingency plans may identify sources of information on anticipated hazards, precautions, and requirements to protect personnel during removal and remedial operations. Names and phone numbers of people with relevant information should be included.

(b) Non-Federal costs. (1) Non-Federal costs of implementing this Plan are eligible for payment from the Fund to the extent such costs are incurred related to releases for which response action has been specifically approved in advance by EPA. In most cases, costs

will be preauthorized pursuant to a cooperative agreement or contract.

(2) The following types of non-Federal response costs may be eligible as direct response costs except as excluded by paragraph (b)(4) of this section and any related guidance when they are incurred under, pursuant to this subpart, a cooperative agreement or contract.

(i) Technical review and management of a subagreement for response activities by the State OSC or project officer.

(ii) Salary and wages of State employees directly involved with the response activities and the portion of the time their first level supervisor devotes to on-site management of their work on the project.

(iii) Cost of materials and supplies necessary for carrying out response actions.

(iv) Cost of equipment used in the response action less its residual value.

(v) Any necessary travel of the OSC, project officer or other State employees working directly on response actions associated with carrying out a response action.

(3) Eligible indirect non-Federal governmental costs are subject to the requirements of OMB Circular A–87.

(4) Ineligible non-Federal costs include, but are not limited to:

(i) State and local costs of complying with section 104(c)(3) of CERCLA; and

(ii) All costs of other preparations for response leading to ranking of a release and prior to a decision to take enforcement action.

(c) Certain emergency response activities of State and local governments under this Plan may qualify for reimbursement as a "major disaster" or an "emergency." The President may allocate funds from the Disaster Relief Act (PL 93–288, as amended), managed by FEMA. FEMA may make financial assistance available to State and local governments and certain private, non-profit organizations for debris removal, emergency protective measures, and repairs and restoration of public facilities. The Director of FEMA may also direct and reimburse Federal agencies to perform disaster-related work for State and local governments which do not have the capability to respond on their own. (See 44 CFR Part 205.)

Subpart G—Designation and Responsibilities of Federal Trustees of Natural Resources

§ 300.71 Designation of trustee.

When natural resources are lost or damaged as a result of a discharge of oil or release of a hazardous substance or pollutant or containment, the following Federal officials are designated to act as trustees of those natural resources specified below:

(a)(1) *Natural Resource Loss.* Damage to resource of any kind located on, over or under land subject to the management of a Federal land managing agency, other than land in or under United States waters that are navigable by deep draft vessels, including waters of the continguous zone and parts of the high seas to which the National Contingency Plan is applicable and other waters subject to tidal influence.

(2) *Trustee.* The head of the Federal land managing agency, or the head of any other single entity designated by it to act as trustee for a specific resource.

(b)(1) *Natural Resource Loss.* Damage to resources of any kind lying in or under United States waters that are navigable by deep draft vessels, including waters of the contiguous zone and parts of the high seas to which the National Contingency Plan is applicable and other waters subject to tidal influence, and upland areas serving as habitat for marine mammals and other species subject to the protective jurisdiction of NOAA.

(2) *Trustee.* The Secretary of Commerce or the head of any other single Federal entity designated by it to act as trustee for a specific resource. Where migratory birds, marine mammals, or endangered or threatnened species or their habitats subject to the protective jurisdiction of the Secretary of the Interior are lost or damaged, the Secretary of Commerce shall obtain the concurrence of the Secretary of the Department of the Interior with respect to assessments, claims and restoration plans pertaining to such resources.

(c)(1) *Natural Resource Loss.* Damages to resources located on lands held by the United States in trust for an Indian tribe or individual Indians within the boundaries of an Indian Reservation lands and held by the United States in trust for an Indian tribe or individual Indians outside of the boundary of an Indian reservation.

(2) *Trustee.* The Secretary of the Department of the Interior, or the head of any other single Federal entity designated by it to act as trustee for specific resources.

§ 300.72 Responsibilities of trustees.

The Federal trustees for natural resources shall be responsible for assessing damages to the resources, seeking recovery for the losses from the person responsible or from the Fund, and devising and carrying out restoration, rehabilitation and replacement plans pursuant to CERCLA.

Subpart H—Use of Dispersants and Other Chemicals

§ 300.81 General.

(a) Section 311(c)(2)(G) of the Clean Water Act requires that EPA prepare a schedule of dispersants and other chemicals, *if any,* that may be used in carrying out the plan.

(b) EPA has determined that its experience with dispersants and other chemicals in oil spills is not yet sufficient to support preparation of a schedule to permit routine usage.

(c) EPA will continue to authorize use of dispersants and other chemicals on a case-by-case basis and may, after additional field experience, choose to propose a schedule which would permit routine usage. Case-by-case approvals will be made by the Administrator or her designee.

[FR Doc. 82-6315 Filed 3-11-82; 8:45 am]

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federal register

Friday
March 12, 1982

Part IV

Environmental Protection Agency

National Primary Drinking Water Regulations; Amendments; Correction

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[Docket No. WH-FRL-2074-2]

National Primary Drinking Water Regulations; Amendments; Correction

February 12, 1982.

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document corrects typographical errors and errors in citations in the amendments to the National Interim Primary Drinking Water Regulations and supplementary information that accompanied those amendments published on August 27, 1980 (45 FR 57332).

DATES: These corrections are effective March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Cotruvo, Director, Criteria and Standards Division, Office of Drinking Water (WH-550), Environmental Protection Agency, Washington, D.C. 20460 (202/472-5016).

SUPPLEMENTARY INFORMATION: On August 27, 1980, EPA promulgated amendments to the National Interim Primary Drinking Water Regulations (NIPDWR) (45 FR 57332). Through the process of implementing those amendments, the Agency has identified a number of typographical errors and errors in citations in the Supplementary Information section of the August 27, 1980, Notice and the promulgated amendments. The following two corrections are being made to the Supplementary Information section in order to avoid any further confusion that may have been created by the two errors.

1. On page 57332, column 3, eighteenth line in section titled, "Summary of Major Changes," the word "nitrite" should be corrected to read "nitrate".

2. On page 57341, column 1, footnote to Table 1, the word "not" was deleted and should be corrected to read, "As noted previously, indices may not be an appropriate measure of corrosive characteristics in all cases."

The remainder of the corrections are to the amendments. Correction number three rectifies an error that resulted in the deletion of the fluoride maximum contaminant level (MCL) from the Code of Federal Regulations. In the July 19, 1979, proposed amendments, EPA proposed to add a new § 141.11(d) that stated: "Fluoride at optimum levels in drinking water has been shown to have beneficial effects in reducing the occurrence of tooth decay." EPA made the decision after public comment to promulgate the new section "(d)" as proposed. The summary of the amendments stated that one amendment was to "add a statement to the NIPDWR clarifying the apparent contradiction between setting an MCL for fluoride and the beneficial effects of fluoride." 45 FR 57332. However, there was a typographical error, and the new section was lettered "c" instead of "d".

The fluoride MCL is at § 141.11(c). The effect of the typographical error was to replace the fluoride MCL with the statement regarding beneficial effects rather than including the statement as an addition to the fluoride MCL. A review of the preamble clearly shows there was no intent to delete the fluoride MCL. This notice corrects that error.

To avoid confusion, instead of adding a new section "(d)," this correction notice adds the statement regarding beneficial effects of fluoride at the end of a section "(c)" that includes the fluoride MCL.

Because this notice only includes corrections to typographical errors and errors in citations, these corrections shall become effective immediately.

This correction is not related to EPA's commitment to reexamine the fluoride standard, on which work is continuing, per EPA's response to the petition from the State of South Carolina (46 FR 58345, December 1, 1981).

Dated: March 2, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

PART 141—NATIONAL INTERIM PRIMARY DRINKING WATER REGULATIONS

Accordingly, the following corrections are made in FR Doc. 80-26105 appearing at page 57342 in the issue of August 27, 1980:

1. On page 57342, column 3, § 141.6(c), line 2, "(c) and (d)" should be corrected to read "(d) and (e)". In line 3, "141.14(b)(1)(c)" should be corrected to read "141.14(b)(1)(i)." Omit "(c)," from line 8.

2. On page 57342, column 3, § 141.11(a), line 5, "organic" should be corrected to read "inorganic".

3. On page 57343, column 1, § 141.11(c) should be corrected to read as follows:

(c) When the annual average of the maximum daily air temperatures for the location in which the community water system is situated is the following, the maximum contaminant levels for fluoride are:

Temperature degrees Fahrenheit	Degrees Celsius	Level, milligrams per liter
53.7 and below	12.0 and below	2.4
53.8 to 58.3	12.1 to 14.6	2.2
58.4 to 63.8	14.7 to 17.6	2.0
63.9 to 70.6	17.7 to 21.4	1.8
70.7 to 79.2	21.5 to 26.2	1.6
79.3 to 90.5	26.3 to 32.5	1.4

Fluoride at optimum levels in drinking water has been shown to have beneficial effects in reducing the occurrence of tooth decay.

4. On page 57344, column 2, § 141.22(a), last line, "Nephrometric" should be corrected to read "Nephelometric".

5. On page 57344, column 2, § 141.23(f)(1), line three, "D-2972-78A" should be corrected to read "D-2972-78B".

6. On page 57344, column 2, § 141.23(f)(1), footnote 4, "1976, Race Street" should be corrected to read, "1916 Race Street".

7. On page 57344, column 3, § 141.23(f)(3), line two, "3557-78A or B" should be corrected to read, "D3557-78A or B".

8. On page 57344, column 3, § 141.23(f)(8), line two, "Absorption Technique" should be corrected to read "Absorption Furnace Technique".

9. On page 57344, column 3, § 141.23(f)(9), line two, insert "pp. 148-151," preceding "Atomic Absorption"; "Atomic Absorption Techniques Furnace Technique" should be corrected to read "Atomic Absorption Furnace Technique".

10. On page 57344, column 3, § 141.23(f)(10) should be deleted and replaced with the following: "(10) Fluoride—Method [1] 340.1, Method [2] 414-A and 414-C, or Method [4] D-1179-72A, Colorimetric Method with Preliminary Distillation; or Method [1] 340.2, Method [2] 414-B, or Method [4] D-1179-72B, Potentiometric Ion Selective Electrode; or Method [3] I-3325-78, pp. 365-367, Colorimetric Eriochrome Cyanine R Method; or Method [1] 340.3, Method [2] 603, Automated Complexone Method (Alizarin Fluoride Blue), pp. 614-616; or Industrial Method #129-71W, Fluoride in Water and Wastewater, Technicon Industrial Systems, Tarrytown, NY 10591, Dec. 1972; or Industrial Method #380-75WE, Automated Electrode Method, Fluoride in Water and Wastewater, Technicon Industrial Systems, Tarrytown, NY, February 1976."

11. On page 57345, column 1, § 141.24(e), line ten, delete "1977"; line twelve, "D3088" should be corrected to

read "D–3086–79"; line sixteen, "A–5" should be corrected to read "A–3".

12. On page 57345, column 1, § 141.24(f), line ten, delete "1977"; line twelve, "D3478" should be corrected to read "D–3478–79"; line thirteen, "555–5692" should be corrected to read "565–569".

13. On page 57345, column 2, § 141.28(a), line three, after "§ 141.27," insert the following: "§§ 141.41 and 141.42".

14. On page 57346, column 3, § 141.42(c)(5) should be deleted and replaced with the following:

"(5) Calcium—EDTA titrimetric method 'Standard Methods for the Examination of Water and Wastewater,' 14th Edition. Method 306C, pp. 189–191; or 'Annual Book of ASTM Standards,' Method D–1126–67B; 'Methods for Chemical Analysis of Water and Wastes,' Method 215.2."

15. On page 57346, column 3, § 141.42(c)(6), lines one and two, "and paint" should be corrected to read "end point".

16. On page 57346, column 3, § 141.42(c)(7), bottom line "D–129378A or B" should be corrected to read, "D–1293–78A or B".

17. On page 57346, column 3, § 141.42(c)(9), lines 7 and 8, delete "13th Edition, pp. 334–335,".

(Safe Drinking Water Act, Sections 1401, 1412, 1414, 1416, 1445 and 1450 of Pub. L. 93–523, as amended by Pub. L. 95–190, 96–63 and 96–502 (42 U.S.C. 300f *et seq.*)

[FR Doc. 82–6819 Filed 3–11–82; 8:45 am]

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Last Listing March 4, 1982

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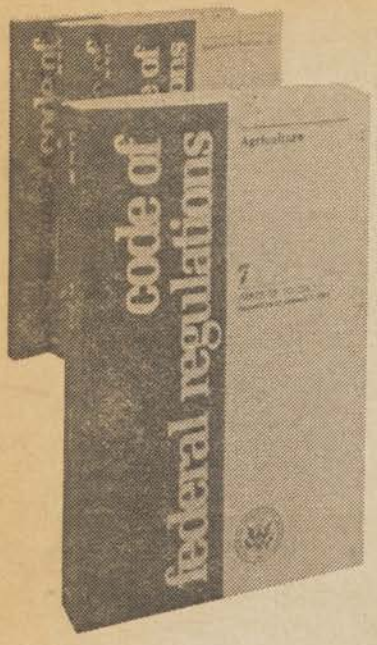
S.J. Res. 142/Pub. L. 97–151 To authorize and request the President to issue a proclamation designating March 21, 1982, as Afghanistan Day, a day to commemorate the struggle of the people of Afghanistan against the occupation of their country by Soviet forces. (Mar. 10, 1982; 96 Stat. 9) Price: $1.50.



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