

10 Federal Register

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- Air Pollution Control**
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- Animal Drugs**
Food and Drug Administration
- Coal Mining**
Surface Mining Reclamation and Enforcement Office
- Disaster Assistance**
Farmers Home Administration
- Equal Access to Justice**
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- Government Employees**
Personnel Management Office
- Grant Programs—Education**
Food and Nutrition Service
- Hazardous Materials**
Environmental Protection Agency
- Imports**
Animal and Plant Health Inspection Service



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

Editor's Note:

The list of subjects on the cover is designed to assist those users who review the **Federal Register** for broad subject areas. The list is compiled from subject terms supplied by agencies for certain of their rule and proposed rule documents as required by 1 CFR 18.20. Subject terms in the list may refer to more than one document. To locate the documents in the **Federal Register** covered by the subject terms in the list, users should consult the Table of Contents under the appropriate agency. We remind users that the list is a selective supplement to the Table of Contents and should not be construed as comprehensive.

This list is an experiment. We hope it will prove useful to those users inconvenienced by the discontinuation of the "Highlights" in February because of reduced personnel resources at the Office of the Federal Register. For this new list our editors simply select subject terms from those appearing in the edition's rule and proposed rule documents rather than perform the detailed analytical work which was needed to produce the "Highlights".

Comments on this list may be sent to Martha Girard, Director, Executive Agencies Division (NFE), Office of the Federal Register, NARS/GSA, Washington, D.C. 20408. Phone (202) 523-5240 (not a toll free number).

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Lawyers

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Housing and Urban Development Department

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Milk Marketing Orders

Agricultural Marketing Service

Mine Safety and Health

Mine Safety and Health Administration

Over-the-Counter Drugs

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Polychlorinated Biphenyls

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 12

Reimbursement of Participants in Rulemaking Proceedings

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is rescinding its regulations governing the reimbursement of individuals and groups for certain costs of participation in USDA rulemaking proceedings. This action is being taken because no applications for reimbursement under these regulations have ever been received and because a recent decision of the United States Court of Appeals for the Fourth Circuit on similar regulations has raised questions about USDA's authority to implement such a program absent express statutory authorization.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT: Elizabeth Webber, Office of Budget and Program Analysis, Room 147-E, United States Department of Agriculture, Washington, D.C. 20250, Phone (202) 382-1270.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 24, 1980 (45 FR 6020) USDA published final regulations governing the reimbursement of certain costs of participation in its rulemaking proceedings. These regulations provided that, to the extent funds were available, reimbursement could be authorized at the discretion of the head of a USDA agency to applicants who met certain specific selection criteria. To qualify for funding applicants were required to demonstrate that their participation

could be expected to contribute substantially to a full and fair determination of the issues; that they were otherwise financially unable to participate; that they were from the area affected; and that they sought to represent an interest not adequately represented.

Because of the strict standards for qualification for reimbursement and the discretion allowed to heads of USDA agencies to approve reimbursement to the extent funds were available, this program was never expected to generate a substantial number of awards. Reimbursement was not available under this program to units of state or local government. In the period since these regulations were promulgated, USDA has not received any requests for reimbursement and no USDA agency has solicited applications for reimbursement in connection with any rulemaking.

Recently the Department's authority to implement these regulations was called into question by a decision on similar regulations by the United States Court of Appeals for the Fourth Circuit. In *Pacific Legal Foundation v. Goyan*, No. 80-1854 (Nov. 27, 1981) the Court held a Food and Drug Administration (FDA) regulation invalid on the grounds that it lacked express authorization to provide reimbursements to participants in rulemaking proceedings. In reviewing the FDA regulation, the Court relied on *Greene County Planning Board v. Federal Power Commission*, 559 F. 2d 1227 (2d Cir. 1976) cert. denied, 434 U.S. 986 (1978). In that case, a Comptroller General's finding that the Federal Power Commission had implied authority to reimburse legal fees of intervenors was held to be insufficient without "appropriate Congressional action," 559 F. 2d at 1240. The FDA (and USDA) regulations were based on the Conference Committee Report on their appropriations bill for fiscal year 1979 (House Report No. 1579, 95th Cong., 2d sess. 29 (1978)) in which both agencies were directed to disburse no funds for this purpose until regulations were put into effect which complied with rulings by the Comptroller General. The Court deemed this directive insufficient to meet the requirements of *Greene County*, drawing a distinction between substantive legislation and appropriations bills. Slip op. at 11-12.

USDA has determined that this rule is not a major rule as defined in Executive Order 12291. It is not likely to result in any significant effect on the economy; any major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Stephen B. Dewhurst, Director, Office of Budget and Program Analysis, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96-354). In view of the lack of utilization of these regulations and the questions as to USDA's authority to implement them without specific statutory authority, it is found pursuant to 5 U.S.C. 553 that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the Federal Register.

List of Subjects in 7 CFR Part 12

Administrative practice and procedure, Legal services, Travel and transportation expenses.

PART 12—[RESERVED]

Accordingly, Part 12 of Title 7, Code of Federal Regulations is hereby removed and reserved.

Dated: May 6, 1982.

John R. Block,
Secretary of Agriculture.

[FR Doc. 82-14017 Filed 5-20-82; 8:45 am]

BILLING CODE 3410-90-M

Food and Nutrition Service

7 CFR Part 227

Nutrition Education and Training Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Nutrition Education and Training (NET)

Program regulations which requires State agencies to submit participation report Form FNS-42 to FNS on a quarterly basis. This rule reduces the recordkeeping requirement and, therefore, decreases the administrative burden on State agencies at a time of limited resources. The amendment changes the submission of Form FNS-42 from a quarterly report to an annual report, thereby reducing the reporting burden on State agencies.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT:

Henry S. Rodriguez, Director, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, 703/756-3585.

SUPPLEMENTARY INFORMATION: The NET Program is authorized by section 19 of the Child Nutrition Act, as amended.

Final program regulations were published on May 15, 1979, (44 FR 28280), with only one amendment being added on March 7, 1980, (45 FR 14841). The Department does not consider this second amendment to be a "major rule" under the definition established in Executive Order 12291. This amendment will have no monetary effect on the economy, nor will it cause a major increase in costs or prices for any sector of the domestic economy. The amendment will not negatively affect the ability of United States-based enterprises to compete with foreign-based enterprises.

List of Subjects in 7 CFR Part 227

Education, Grant programs-education, Grant programs-health, Infants and children, Nutrition.

PART 227—NUTRITION EDUCATION AND TRAINING PROGRAM

In accordance with the Administrative Procedures Act, 5 U.S.C. 553(6)(3)(B), the Department finds that public rule making procedures would be contrary to the public interest.

Accordingly, 7 CFR Part 227 is being amended as follows:

1. The authority citation for Part 227 reads as follows:

Authority: Section 15, Pub. L. 95-166, 91 Stat. 1340 (42 U.S.C. 1788).

2. In § 227.30 paragraph (f)(3) is revised to read as follows:

§ 227.30 Responsibilities of State agencies.

* * * * *

(f) * * *

(3) Each State agency shall submit an

annual performance report (Form FNS-42) to FNS within 30 days after the close of the Fiscal Year.

* * * * *

Dated: May 12, 1982.

Samuel J. Cornelius,
Administrator.

[FR Doc. 82-13473 Filed 5-20-82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 360; Lemon Reg. 359, 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 May 23-29, 1982, and increases the quantity of lemons that may be shipped during the period May 16-22, 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 (§910.660) becomes effective May 23, 1982 and the amendment (§910.659) is effective for the period May 16-22, 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 May 18, 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 very active.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

1. Section 910.660 is added as follows:

§ 910.660 Lemon Regulation 360.

The quantity of lemons grown in California and Arizona which may be handled during the period May 23, 1982, through May 29, 1982, is established at 300,000 cartons.

2. Section 910.659 Lemon Regulation 359 (47 FR 20743) is revised to read as follows:

§ 910.659 Lemon Regulation 359.

The quantity of lemons grown in California and Arizona which may be handled during the period May 16, 1982, through May 22, 1982, is established at 310,000 cartons.

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

Dated: May 19, 1982.

Russell L. Hawes,

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

[FR Doc 82-14164 Filed 5-20-82; 12:44 pm]

BILLING CODE 3410-02-M

7 CFR Parts 911 and 915

Limes Grown in Florida, and Avocados Grown in South Florida; Amendment of Container Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment of the Florida lime and avocado regulations permits the use of additional containers for shipments of fresh limes and avocados. This action is designed to promote orderly marketing and to standardize packing practices.

DATES: Effective on and after May 18, 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. 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 agreements, as amended, and Orders No. 911 and 915, as amended (7 CFR Parts 911 and 915), regulating the handling of limes grown in Florida and avocados grown in South Florida. The agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Florida lime and avocado administrative committees and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This rule amends § 911.329, effective under 7 CFR Part 911—Subpart—Container Regulation, and § 915.305, effective under 7 CFR Part 915—Subpart—Container and Pack Regulations, by authorizing the use of additional containers to be used for shipments of fresh limes and avocados. The additional container being authorized for limes has inside dimensions of 12¾ inches x 15¼ inches x 10¾ inches. The rule specifies that such a container have not less than 38 pounds nor more than 40 pounds net weight of limes. Three additional containers are being authorized for avocados. These containers have

inside dimensions of: (1) 12¾ inches x 15¼ inches x 10¾ inches; (2) 12¾ inches x 15¼ inches, with depth varying from 7½ to 8¾ inches; and (3) 12¾ inches x 15¼ inches, with depth varying from 3½ to 5 inches. The rule specifies minimum net weight requirements for particular varieties handled in such containers. This amendment permits the use of containers specially designed for use in packinghouses with fully mechanized palletizers, which automatically hold and stack containers on pallets. Palletization of containers of limes and avocados facilitates efficient handling and aids in the distribution of the fruits to market. This action is necessary to promote the efficient handling of limes and avocados and to maintain orderly marketing conditions.

To minimize disruption as much as possible and still bring these marketing orders into compliance with the Secretary's Guidelines for Fruit, Vegetables, & Specialty Crop Marketing Orders, issued January 25, 1982, these regulations are being issued with the understanding that the Florida lime and avocado administrative committees will initiate certain actions during 1982. These actions are necessary so that operations under these programs will conform with the guidelines. The guidelines state that orders containing quality provisions, like the Florida lime and avocado orders, should not be used as a form of supply control. In evaluating quality control programs, emphasis is placed on (1) whether quality controls have varied significantly from season to season or within seasons, (2) whether the percentage of product meeting minimum quality standards has been declining, or (3) whether the standards have been tightened over the years. In addition, to conform with the guidelines, marketing orders should contain limitation on committee tenure and provide for periodic referenda.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this amendment until 30 days after publication in the *Federal Register* (5 U.S.C. 553), in that (1) the handling of Florida limes and avocados is now in progress subject to container and pack regulations effective under the order, (2) the committees recommended the amendment at a public meeting at which all interested parties were afforded an opportunity to express their views, and (3) the amendment relieves restrictions on the handling of Florida limes and avocados.

List of Subjects in 7 CFR Parts 911 and 915.

Marketing agreements and orders, Limes, Avocados, Florida

PART 911—LIMES GROWN IN FLORIDA

1. Accordingly, § 911.329 is revised to read as follows:

Subpart—Container Regulation**§ 911.329 Lime Regulation 27.***(a) Order.*

(1) On and after May 18, 1982, no handler shall handle between the production area and any point outside thereof any variety of limes, grown in the production area, in individual bags having a capacity of more than 4 pounds net weight of limes.

(2) Except as provided in paragraph (a)(4) of this section on and after the effective date hereof no handler shall handle between the production area and any point outside thereof any variety of limes, grown in the production area, in containers having a capacity of more than 4 pounds of limes unless such limes are handled in containers meeting the following specifications and conform to all other applicable requirements of this section:

(i) Containers with inside dimensions of 11¾ by 16¾ by 10 inches: *Provided*, That any such containers shall contain not less than 38 pounds nor more than 40 pounds net weight of limes.

(ii) Containers with inside dimensions of 11¾ by 16 by 11 inches: *Provided*, That any such container shall contain not less than 38 pounds nor more than 40 pounds net weight of limes.

(iii) Containers with inside dimensions of 13½ by 16½ by 9 inches: *Provided*, That any such container shall contain not less than 38 pounds nor more than 40 pounds net weight of limes.

(iv) Containers with inside dimensions of 11¾ by 16 by 6 inches: *Provided*, That any such container shall contain not less than 20 pounds nor more than 22 pounds net weight of limes.

(v) Containers with inside dimensions of 11 by 16¾ by 6 inches: *Provided*, That any such container shall contain not less than 20 pounds nor more than 22 pounds net weight of limes.

(vi) Containers with inside dimensions of 13½ by 16½ by 5 inches: *Provided*, That any such container shall contain not less than 20 pounds nor more than 22 pounds net weight of limes.

(vii) Containers with inside dimensions of 12 by 9¾ by 3¾ inches: *Provided*, That any such container shall

contain not less than 10 pounds net weight of limes.

(viii) Containers with inside dimensions of 12 by 9½ by 5 inches: *Provided*, That any such container shall contain not less than 10 pounds nor more than 12 pounds net weight of limes.

(ix) Containers with inside dimensions of 12¾ x 15¼ x 10¼ inches: *Provided*, That any such container shall contain not less than 38 pounds nor more than 40 pounds net weight of limes.

(x) Such other types and sizes of containers as may be approved by the Florida Lime Administrative Committee, with the approval of the Secretary, for testing in connection with a research project conducted by or in cooperation with said committee: *Provided*, That the handling of each lot of limes in such test containers shall be subject to the prior approval, and under the supervision of, the Florida Lime Administrative Committee.

(3) Except as provided in paragraph (a)(4) of this section, the limitations set forth in paragraph (a)(2) of this section shall not apply to master containers of individual packages, including individual bags of limes: *Provided*, That the individual packages within such master container are of a capacity not exceeding 4 pounds net weight of limes and the marketing or labels, if any, on such packages do not conflict with the markings or labels on the master container.

(4) During the period May 14, 1973, through June 17, 1973, no handler shall handle any variety of limes, grown in the production area, in individual bags unless such bags are packed in:

(i) Master containers, with inside dimensions of 11 by 16¾ by 10 inches: *Provided*, That any such master container shall contain not less than 31 pounds nor more than 37 pounds net weight of limes; or

(ii) Master containers, with inside dimensions of 11¾ by 16 by 11 inches: *Provided*, That any such master container shall contain not less than 31 pounds nor more than 37 pounds net weight of limes; or

(iii) Master containers, with inside dimensions of 11¾ by 16 by 8 inches: *Provided*, That any such master container shall contain not less than 15½ pounds nor more than 18½ pounds net weight of limes; or

(iv) Master containers, with inside dimensions of 11 by 16¾ by 6 inches: *Provided*, That any such master container shall contain not less than 15½ pounds nor more than 18½ pounds net weight of limes.

(5) Not more than a total of 5 percent, by count, of master containers of individual bags in any lot of such master containers may fail to meet the applicable net weights specified therefor in paragraph (a)(4) of this section.

(b) The terms "handler," "handle," "limes," and "production area" when used in this section shall have the same meaning as when used in the amended marketing agreement and this part.

2. Section 915.305 (46 FR 43953) is revised to read as follows:

Subpart—Container and Pack Regulation

§ 915.305 Florida avocado container regulation 5.

(a) On and after May 18, 1982, no handler shall handle any avocados for the fresh market from the production area to any point outside thereof in containers having a capacity of more than 4 pounds of avocados unless such containers meet the requirements specified in this section: *Provided*, That the containers authorized in this section shall not be used for handling avocados for commercial processing into products pursuant to § 915.55(c).

(1) Containers with inside dimensions of 11¾ x 16 x 11 or 11 x 16¾ x 10 or 13½ x 16½ x 9 inches or 12¾ x 15¼ x 10¾ inches: *Provided*, That (i) the net weight of the avocados in such a container shall be not less than 34 pounds, except that for avocados of unnamed varieties, which are avocados that have not been given varietal names, and for Booth 1, Fuchs, and Trapp varieties, such weight shall be not less than 32 pounds; (ii) with respect to each lot of such containers, not exceed 10 percent, by count of the individual containers in the lot may fail to meet the applicable specified weight but no container in such lot may contain a net weight of avocados exceeding 2 pounds less than the specified net weight, and (iii) each avocado in such container in a lot shall weight at least 16 ounces, except that not to exceed 10 percent, by count, of the fruit in the lot may fail to meet such weight requirement but not more than double such tolerance shall be permitted for an individual container in the lot.

(2) Containers with inside dimensions of 14¾₁₆ x 11¾₁₆ x 4¾₁₆ inches: *Provided*, That such containers shall only be used for export shipments.

(3) Containers with inside dimensions of 13½ x 16½ x 3¼ inches.

(4) Containers with inside dimensions of 13½ x 16½ x 3¼ inches.

(5) Containers with inside dimensions of 13½ x 16½ x 4½ inches.

(6) Containers with inside dimensions of 13½ x 16½ x 5 inches.

(7) Containers with inside dimensions of 13½ x 16½ x 6 inches.

(8) Containers with inside dimensions of 12¾ x 15¼ with depth varying from 3½ to 5 inches.

(9) Containers with inside dimensions of 13½ x 16½ and depth varying from 6½ to 8 inches.

(10) Containers with inside dimensions of 12¾ x 15¼ with depth varying from 7½ to 8¼ inches.

(11) Such other types and sizes of containers as may be approved by the Avocado Administrative Committee for testing in connection with a research project conducted by or in cooperation with the said committee: *Provided*, That the handling of each lot of avocados in such test containers shall be subject to the prior approval, and under the supervision, of the Avocado Administrative Committee.

(12) With respect to the containers prescribed in paragraph (a)(2) of this section, all avocados packed in such containers shall be placed in one layer only and the net weight of all avocados in any such container shall be not less than 8.8 pounds: *Provided*, That not to exceed five percent, by count, of such containers in any lot may fail to meet such weight requirement.

(13) With respect to the containers prescribed in paragraph (a)(3) through (a)(8) of this section, all avocados packed in such containers shall be placed in one layer only and the net weight of all avocados in any such container shall be not less than 12½ pounds: *Provided*, That not to exceed 5 percent, by count, of such containers in any lot may fail to meet such weight requirement.

(14) With respect to the containers prescribed in paragraphs (a)(9) and (a)(10) of this section, all avocados in such containers shall be placed in two layers and the net weight of the avocados in any such container shall be not less than 25 pounds: *Provided*, That not to exceed 5 percent, by count, of such containers in any lot may fail to meet the applicable net weight requirement: *Provided further*, That the requirement as to placing avocados in two layers only shall not apply to such container if each of the avocados therein weighs 14 ounces or less.

(b) The limitations set forth in paragraph (a) of this section shall not apply to master containers for individual packages of avocados: *Provided*, That the individual packages within such master container are of a capacity not exceeding four pounds and the markings or labels, if any, on such

packages do not conflict with the markings or labels on the master container.

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

Dated: May 18, 1982.

Russell L. Hawes,

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

[FR Doc. 82-14016 Filed 5-20-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 915 and 944

[Florida Avocado Regulation 25; Avocado Import Regulation 31]

Avocados Grown in South Florida and Imported Avocados; Grade and Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: These regulations specify minimum grade and maturity requirements for shipments of fresh avocados grown in south Florida, and for avocados imported into the United States. Such action is necessary to assure the shipment of ample supplies of mature avocados of acceptable quality in the interests of producers and consumers.

DATES: Interim rule effective May 24, 1982, through August 22, 1982; comments which are received by June 21, 1982 will be considered prior to issuance of a final rule to become effective on August 23, 1982.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

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 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.

The Florida avocado regulation is issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida. The agreement and order are

effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The avocado import regulation is issued under section 8e (7 U.S.C. 608e-1) of this act. The grade and maturity requirements applicable to Florida avocado shipments were recommended by the Avocado Administrative Committee, which locally administers this marketing order program.

The regulations establish U.S. No. 3 as the minimum grade, and prescribe minimum weights or diameters by specified dates as the maturity requirements for the various varieties of avocados. Minimum weights or diameters and picking dates are used as indicators during harvest to determine which avocados are sufficiently mature to complete the ripening process. Skin color is also authorized as a method of determining maturity, for those varieties which turn red or purple when mature. The requirements are designed to assure that the various varieties of avocados will be of suitable quality and maturity so they provide consumer satisfaction, which is essential for the successful marketing of the crop. They are also designed to provide the trade and consumers with an adequate supply of mature avocados of acceptable quality, in the interest of producers and consumers pursuant to the declared policy of the act.

The import requirements are issued under section 8e of the act, which requires that when specified commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

To minimize disruption as much as possible and still bring this marketing order into compliance with the Secretary's guidelines for fruit, vegetable, and specialty crop marketing orders, issued January 25, 1982, this regulation is being issued with the understanding that the Avocado Administrative Committee will initiate certain actions during 1982. These actions are necessary so that operations under the program will conform with the guidelines. The guidelines state that orders containing quality provisions, like the Florida avocado order, should not be used as a form of supply control. In evaluating quality control programs, emphasis is placed on (1) whether quality controls have varied significantly from season to season or within seasons, (2) whether the percentage of product meeting minimum quality standards has been declining, or

(3) whether the standards have been tightened over the years. In addition, to conform with the guidelines, marketing orders should contain limitation on committee tenure and provide for periodic referenda.

For the 1982-83 season, the Avocado Administrative Committee estimates fresh shipments at a record 1,300,000 bushels (55 pounds), 33 percent more than the estimated 976,872 bushels shipped fresh in 1981-82, and 17 percent more than the 1,113,951 bushels shipped fresh in 1980-81. Shipments of fresh avocados from California are expected to reach 6,100,000 bushels and during the California season ending October 31, 1982. Relatively small amounts of avocados are imported into the United States, mostly from the Dominican Republic. Shipment of this season's crop is expected to begin with light shipments of early varieties in late May, with volume shipments beginning in late June or early July.

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 these regulations 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 these regulations 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 Florida avocado regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and Florida avocado handlers have been apprised on the provisions and effective date of the Florida avocado regulation. The avocado import requirements are mandatory under section 8e of the act, and 3 days notice is provided as required.

List of Subjects in 7 CFR Part 915

Marketing agreements and orders, Avocados, Florida.

Therefore, new §§ 915.325 and 944.23 are added to read as follows: (§§ 915.325 and 944.23 expire August 22, 1982, and will not be published in the annual Code of Federal Regulations).

§ 915.325 Florida Avocado Regulation 25.

(a) During the period May 24, 1982, through August 22, 1982, no handler shall handle any variety of avocados grown in the production area unless:

(1) Such avocados grade at least U.S. No. 3, except for avocados handled

within the production area in containers other than those authorized in § 915.305.

(2) Such avocados have any portion of the skin of the individual fruit changed to the color normal for that fruit when mature for those varieties which normally change color to any shade of red or purple when mature, except for the Linda variety.

(3) Such avocados, except as provided in paragraph (a)(2) of this section, meet the minimum weight and diameter requirements for the specified effective periods for each variety listed in the following Table I: *Provided*, That avocados may not be handled prior to the earliest date specified in column 2 of such table for the respective variety: *Provided further*, That up to a total of 10 percent, by count, of the individual fruit in each lot may weigh less than the minimum specified or be less than the specified diameter, except that no such avocados shall be over 2 ounces lighter than the minimum weight specified for the variety: *Provided further*, That up to double such tolerance shall be permitted for fruit in an individual container in a lot.

TABLE 1

| Avocado variety | Effective period | | Minimum size | |
|-----------------------------------|------------------|---------|---------------|-----------------|
| | From | Through | Weight ounces | Diameter inches |
| Kosol | 5-24-82 | 6-06-82 | 16 | |
| | 6-07-82 | 6-20-82 | 13 | |
| Arue | 5-24-82 | 6-06-82 | 16 | |
| | 6-07-82 | 7-11-82 | 14 | 3 1/2 |
| Roland 2-2 | 6-07-82 | 6-20-82 | 22 | |
| | 6-21-82 | 7-11-82 | 20 | |
| J. M. Poropat | 6-14-82 | 6-20-82 | 20 | |
| | 6-21-82 | 7-11-82 | 18 | |
| | 7-12-82 | 7-25-82 | 16 | |
| Fuchs | 6-14-82 | 6-27-82 | 14 | 3 1/2 |
| | 6-28-82 | 7-11-82 | 12 | 3 |
| Dr. Dupuis #2 | 6-14-82 | 6-27-82 | 16 | 3 1/2 |
| | 6-28-82 | 7-11-82 | 14 | 3 1/2 |
| | 7-12-82 | 7-25-82 | 12 | 3 1/2 |
| K-5 | 6-21-82 | 7-04-82 | 18 | 3 1/2 |
| | 7-05-82 | 7-18-82 | 14 | 3 1/2 |
| Katherine | 6-28-82 | 7-11-82 | 16 | |
| | 7-12-82 | 7-25-82 | 14 | |
| Haile | 6-28-82 | 7-11-82 | 20 | |
| | 7-12-82 | 7-18-82 | 16 | |
| | 7-19-82 | 8-08-82 | 14 | |
| West Indian Seedling ¹ | 6-28-82 | 7-25-82 | 18 | |
| | 7-26-82 | 8-29-82 | 16 | |
| | 8-30-82 | 9-26-82 | 14 | |
| Pollock | 6-28-82 | 7-11-82 | 18 | 3 1/2 |
| | 7-12-82 | 7-25-82 | 16 | 3 1/2 |
| | 7-26-82 | 8-08-82 | 14 | 3 1/2 |
| Simmonds | 6-28-82 | 7-11-82 | 16 | 3 1/2 |
| | 7-12-82 | 7-25-82 | 14 | 3 1/2 |
| | 7-26-82 | 8-08-82 | 12 | 3 1/2 |
| Hardee | 6-28-82 | 7-04-82 | 16 | 3 1/2 |
| | 7-05-82 | 7-25-82 | 14 | 2 1/2 |
| Nadir | 6-28-82 | 7-04-82 | 14 | 3 1/2 |
| | 7-05-82 | 7-11-82 | 12 | 3 1/2 |
| | 7-12-82 | 7-25-82 | 10 | 2 1/2 |
| Donnie | 7-05-82 | 7-18-82 | 16 | 3 1/2 |
| | 7-19-82 | 8-15-82 | 14 | 3 1/2 |
| Dawn | 7-12-82 | 7-25-82 | 12 | 3 1/2 |
| | 7-26-82 | 8-08-82 | 10 | 3 |
| Webb-2 | 7-12-82 | 7-25-82 | 18 | |
| | 7-26-82 | 8-08-82 | 16 | |
| Cash | 7-12-82 | 8-06-82 | 16 | |
| Gretchen | 7-12-82 | 7-25-82 | 14 | |
| | 7-26-82 | 8-08-82 | 12 | |
| Ruehle | 7-12-82 | 7-18-82 | 18 | 3 1/2 |

TABLE 1—Continued

| Avocado variety | Effective period | | Minimum size | |
|----------------------------------|------------------|----------|---------------|-----------------|
| | From | Through | Weight ounces | Diameter inches |
| Peterson | 7-19-82 | 7-25-82 | 16 | 3 1/2 |
| | 7-26-82 | 8-08-82 | 14 | 3 1/2 |
| | 8-09-82 | 8-15-82 | 12 | 3 1/2 |
| | 8-16-82 | 8-22-82 | 10 | 3 1/2 |
| | 7-19-82 | 7-25-82 | 14 | 3 1/2 |
| | 7-26-82 | 8-01-82 | 12 | 3 1/2 |
| | 8-02-82 | 8-15-82 | 10 | 3 1/2 |
| Biondo | 7-19-82 | 8-22-82 | 13 | |
| Alpha | 7-19-82 | 8-08-82 | 16 | 3 1/2 |
| Bernecker | 7-26-82 | 8-22-82 | 18 | 3 1/2 |
| 232 | 7-26-82 | 8-08-82 | 14 | |
| | 8-09-82 | 8-22-82 | 12 | |
| Chapple | 7-26-82 | 8-22-82 | 18 | |
| B & B | 7-26-82 | 8-29-82 | 16 | 3 1/2 |
| Pinell | 7-26-82 | 8-08-82 | 18 | 3 1/2 |
| | 8-09-82 | 8-22-82 | 16 | 3 1/2 |
| Trapp | 7-26-82 | 8-08-82 | 14 | 3 1/2 |
| | 8-09-82 | 8-22-82 | 12 | 3 1/2 |
| Miguel (P) | 7-26-82 | 8-08-82 | 22 | 3 1/2 |
| | 8-09-82 | 8-22-82 | 20 | 3 1/2 |
| | 8-23-82 | 9-05-82 | 18 | 3 1/2 |
| Nesbitt | 7-26-82 | 8-08-82 | 22 | 3 1/2 |
| | 8-09-82 | 8-15-82 | 16 | 3 1/2 |
| | 8-16-82 | 8-29-82 | 14 | 3 1/2 |
| Beta | 8-09-82 | 8-15-82 | 18 | 3 1/2 |
| | 8-16-82 | 9-05-82 | 16 | 3 1/2 |
| Mille-D | 8-09-82 | 9-05-82 | 18 | |
| K-9 | 8-09-82 | 8-29-82 | 16 | |
| Gorham | 8-09-82 | 8-22-82 | 29 | 4 1/2 |
| | 8-23-82 | 9-05-82 | 27 | 4 1/2 |
| Shula | 8-09-82 | 8-29-82 | 22 | |
| Tower-2 | 8-09-82 | 8-22-82 | 14 | 3 1/2 |
| | 8-23-82 | 9-12-82 | 12 | 3 1/2 |
| Christina | 8-09-82 | 8-29-82 | 11 | 2 1/2 |
| Tonnage | 8-09-82 | 8-22-82 | 16 | 3 1/2 |
| | 8-23-82 | 8-29-82 | 14 | 3 1/2 |
| | 8-30-82 | 9-05-82 | 12 | 3 |
| Waldin | 8-09-82 | 8-22-82 | 16 | 3 1/2 |
| | 8-23-82 | 9-05-82 | 14 | 3 1/2 |
| | 9-06-82 | 9-19-82 | 12 | 3 1/2 |
| The Franvee | 8-16-82 | 9-12-82 | 23 | |
| Lisa (P) | 8-16-82 | 8-22-82 | 12 | 3 1/2 |
| | 8-23-82 | 8-29-82 | 11 | 3 |
| Catalina | 8-23-82 | 9-05-82 | 24 | |
| | 9-06-82 | 9-26-82 | 22 | |
| Fairchild | 8-23-82 | 9-05-82 | 18 | 3 1/2 |
| | 9-06-82 | 9-19-82 | 14 | 3 1/2 |
| | 9-20-82 | 9-26-82 | 12 | 3 1/2 |
| Nirody | 8-23-82 | 9-05-82 | 18 | 3 1/2 |
| | 9-06-82 | 9-19-82 | 16 | 3 1/2 |
| Loretta | 8-23-82 | 10-03-82 | 28 | 4 1/2 |
| Blair | 9-06-82 | 9-19-82 | 16 | 3 1/2 |
| | 9-20-82 | 10-10-82 | 14 | 3 1/2 |
| Black Prince | 9-06-82 | 9-19-82 | 23 | 3 1/2 |
| | 9-20-82 | 10-10-82 | 18 | 3 1/2 |
| Booth 8 | 9-06-82 | 9-26-82 | 16 | 3 1/2 |
| | 9-27-82 | 10-10-82 | 14 | 3 1/2 |
| | 10-11-82 | 10-24-82 | 10 | 3 1/2 |
| Booth 7 | 9-06-82 | 9-19-82 | 18 | 3 1/2 |
| | 9-20-82 | 10-03-82 | 16 | 3 1/2 |
| | 10-04-82 | 10-17-82 | 14 | 3 1/2 |
| Booth 5 | 9-13-82 | 9-26-82 | 14 | 3 1/2 |
| | 9-27-82 | 10-10-82 | 12 | 3 1/2 |
| | 9-13-82 | 10-10-82 | 22 | |
| Csonka | 9-13-82 | 10-10-82 | 15 | |
| Guatemalan Seedling ² | 9-13-82 | 10-10-82 | 13 | |
| | 10-11-82 | 12-12-82 | 13 | |
| Marcus | 9-13-82 | 9-26-82 | 32 | 4 1/2 |
| | 9-27-82 | 11-07-82 | 24 | 4 1/2 |
| Brooks 1978 | 9-13-82 | 9-19-82 | 12 | 3 1/2 |
| | 9-20-82 | 9-26-82 | 10 | 3 1/2 |
| | 9-27-82 | 10-17-82 | 8 | 2 1/2 |
| Chica | 9-20-82 | 10-03-82 | 12 | 3 1/2 |
| | 10-04-82 | 10-17-82 | 10 | 3 1/2 |
| Collinson | 9-20-82 | 10-17-82 | 16 | 3 1/2 |
| Rue | 9-20-82 | 9-26-82 | 30 | 4 1/2 |
| | 9-27-82 | 10-10-82 | 24 | 3 1/2 |
| | 10-11-82 | 10-24-82 | 18 | 3 1/2 |
| Hickson | 9-20-82 | 10-03-82 | 12 | 3 1/2 |
| | 10-04-82 | 10-17-82 | 10 | 3 |
| Vaca | 9-27-82 | 10-17-82 | 16 | 3 1/2 |
| Sherman | 9-27-82 | 10-10-82 | 16 | |
| | 10-11-82 | 10-24-82 | 14 | |
| | 10-25-82 | 11-14-82 | 10 | |
| Simpson | 9-27-82 | 10-17-82 | 16 | 3 1/2 |
| Choquette | 9-27-82 | 10-10-82 | 24 | 4 1/2 |
| | 10-11-82 | 10-24-82 | 20 | 3 1/2 |
| | 10-25-82 | 11-07-82 | 16 | 3 1/2 |

TABLE 1—Continued

| Avocado variety | Effective period | | Minimum size | |
|-----------------|------------------|----------|---------------|-----------------|
| | From | Through | Weight ounces | Diameter inches |
| Winslowson | 10-04-82 | 10-24-82 | 18 | 3 1/2 |
| Booth 10 | 10-04-82 | 10-31-82 | 16 | 3 1/2 |
| Avon | 10-04-82 | 10-24-82 | 15 | 3 1/2 |
| Booth 11 | 10-04-82 | 10-24-82 | 16 | 3 1/2 |
| Leona | 10-04-82 | 10-17-82 | 18 | 3 1/2 |
| Nelson | 10-04-82 | 10-17-82 | 14 | 3 1/2 |
| | 10-18-82 | 10-31-82 | 12 | 3 1/2 |
| | 11-01-82 | 11-21-82 | 10 | 3 1/2 |
| Hall | 10-04-82 | 10-17-82 | 26 | 3 1/2 |
| | 10-18-82 | 10-31-82 | 20 | 3 1/2 |
| | 11-01-82 | 11-14-82 | 18 | 3 1/2 |
| Herman | 10-11-82 | 10-24-82 | 16 | 3 1/2 |
| | 10-25-82 | 11-07-82 | 14 | 3 1/2 |
| Murphy | 10-11-82 | 10-24-82 | 16 | |
| | 10-25-82 | 11-07-82 | 14 | |
| | 11-08-82 | 11-28-82 | 11 | |
| Lula | 10-11-82 | 10-24-82 | 18 | 3 1/2 |
| | 10-25-82 | 11-07-82 | 14 | 3 1/2 |
| | 11-08-82 | 11-21-82 | 12 | 3 1/2 |
| Ajax (B-7) | 10-18-82 | 11-07-82 | 18 | 3 1/2 |
| Taylor | 10-18-82 | 10-31-82 | 14 | 3 1/2 |
| | 11-01-82 | 11-14-82 | 12 | 3 1/2 |
| Booth 3 | 10-18-82 | 10-24-82 | 16 | 3 1/2 |
| | 10-25-82 | 11-07-82 | 14 | 3 1/2 |
| Dunedin | 11-01-82 | 11-14-82 | 16 | 3 1/2 |
| | 11-15-82 | 11-28-82 | 14 | 3 1/2 |
| | 11-29-82 | 12-19-82 | 10 | 3 1/2 |
| Byars | 11-08-82 | 11-28-82 | 16 | 3 1/2 |
| Linda | 11-08-82 | 11-28-82 | 18 | 3 1/2 |
| Nabal | 11-08-82 | 11-28-82 | 14 | 3 1/2 |
| Monroe | 11-08-82 | 11-21-82 | 24 | 4 1/2 |
| | 11-22-82 | 12-05-82 | 20 | 3 1/2 |
| | 12-06-82 | 12-19-82 | 16 | 3 1/2 |
| Booth 1 | 11-15-82 | 11-28-82 | 16 | 3 1/2 |
| | 11-29-82 | 12-12-82 | 12 | 3 1/2 |
| Marclin | 11-22-82 | 12-19-82 | 28 | 4 1/2 |
| Zio (P) | 11-22-82 | 12-5-82 | 12 | 3 1/2 |
| | 12-6-82 | 12-19-82 | 10 | 2 1/2 |
| Wagner | 11-29-82 | 12-12-82 | 12 | 3 1/2 |
| | 12-13-82 | 12-26-82 | 10 | 3 1/2 |
| Schmidt | 11-29-82 | 12-26-82 | 16 | |
| Brookslate | 12-13-82 | 12-26-82 | 18 | 3 1/2 |
| | 12-27-82 | 1-16-83 | 14 | 3 1/2 |
| | 1-17-83 | 1-30-83 | 12 | 3 1/2 |
| | 1-31-83 | 2-13-83 | 10 | |
| Meya (P) | 12-20-82 | 1-02-83 | 13 | 3 1/2 |
| | 1-03-83 | 1-16-83 | 11 | 3 |
| Izamma | 2-07-83 | 2-13-83 | 12 | |

¹ Avocados of the West Indian type varieties and the West Indian type seedlings not listed elsewhere in Table I.
² Avocados of the Guatemalan type varieties, hybrid varieties, and unidentified seedlings not listed elsewhere in Table I.

(b) The term "diameter" shall mean the greatest dimension measured at a right angle to a straight line from the stem to the blossom end of the fruit, and the term "U.S. No. 3" shall mean the same as in the U.S. Standards for Grades of Florida Avocados (7 CFR 51.3050-3069).

§ 944.23 Avocado Import Regulation 31.

(a) *Applicability to imports.* Pursuant to section 8e of the act and Part 944—Fruits; Import Regulations, the importation into the United States of any avocados is prohibited during the period May 25, 1982, through August 22, 1982, unless:

(1) Such avocados grade at least U.S. No. 3, as defined in § 915.325.

(2) Such avocados of the Pollack, Trapp, and Catalina varieties meet the maturity requirements specified in paragraph (a)(2), or in paragraph (a)(3)

and Table 1 of § 915.325, for these varieties.

(3) Such avocados of the West Indian type varieties and West Indian type seedlings, except for the Pollack and Trapp varieties, meet the maturity requirements specified in paragraph (a)(2), or in paragraph (a)(3) and Table 1 of § 915.325, for West Indian Seedlings.

(4) Such avocados of the Guatemalan type varieties, hybrid varieties, and unidentified seedlings, except for the Catalina variety, meet the maturity requirements specified in paragraph (a)(2), or in paragraph (a)(3) and Table 1 of § 915.325, for Guatemalan Seedlings.

(b) It is hereby found that avocados imported into the United States shall meet the same grade and maturity requirements specified in § 915.325 for avocados grown in South Florida under M.O. 915 (7 CFR Part 915), except that all varieties of avocados, other than the Pollack, Catalina, and Trapp varieties, shall meet comparable weight and diameter maturity requirements, because it is not practicable to apply the same requirements due to the variations in characteristics between avocados grown in Florida and avocados imported into the United States.

(c) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) and in accordance with the procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 400).

(d) The term "importation" means the release from custody of the United States Customs Service.

(e) *Minimum quantity exemption.* Any person may import up to 55 pounds of avocados exempt from the requirements specified in this section, except for avocados which have been inspected and found not to meet such requirements.

(f) Any lot or portion thereof which fails to meet the import requirements

prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

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

Dated, May 18, 1982, to become effective May 24, 1982.

Russell L. Hawes,

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

[FR Doc. 82-13973 Filed 5-20-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1004

[Docket No. AO-160-A58; Milk Order No. 4]

Milk in the Middle Atlantic Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action adopts on an emergency basis an amendment to the Middle Atlantic milk order. The change will provide handlers with limited transportation credits from the marketwide pool for certain Class II milk transferred or diverted to unusually distant outlets for surplus disposal. The change, which will apply only through June 30, 1982, was considered at a public hearing held on March 16-17, 1982, in East Point, Georgia. The order change was proposed by a cooperative association that represents dairy farmers who supply milk to the market.

The change is necessary to reflect current marketing conditions and to insure that all producers in the market share more equitably in the cost of disposing of unusually large supplies of surplus milk that are expected this spring. Marketing conditions are such that prompt amendatory action is required. For this reason, a recommended decision and the opportunity to file exceptions thereto were omitted. Cooperative associations representing more than two-thirds of the producers in the market have approved the issuance of the amended order.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202/447-4829).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued March 4, 1982; published March 10, 1982 (47 FR 10230).

Emergency Final Decision: Issued April 19, 1982; published April 23, 1982 (47 FR 17530).

Findings and Determinations

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Middle Atlantic marketing area.

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

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective upon publication in the Federal Register. Any delay beyond that date would tend to

disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued April 19, 1982 (47 FR 17530). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective upon publication in the *Federal Register* and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the *Federal Register*. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

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

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

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

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Middle Atlantic marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

List of Subjects in 7 CFR Part 1004

Milk marketing orders, Milk, Dairy products.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. In § 1004.60, paragraph (f) is added to read as follows:

§ 1004.60 Pool obligation of each pool handler.

* * * * *

(f) With respect to milk marketed on an after the effective date hereof

through June 1982, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II milk pursuant to § 1004.42(d) or § 1004.42(e)(3) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 200 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Philadelphia, Pennsylvania; the zero milestone in Washington, D.C.; the city hall in Baltimore, Maryland; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

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

Effective date: May 21, 1982.

Signed at Washington, D.C., on May 17, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-13916 Filed 5-20-82; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1888

Special Assistance to Drought Stricken Areas

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is removing from the Code of Federal Regulations (CFR) its regulations pertaining to special assistance to drought stricken areas. This regulation is removed because it is no longer needed. Applicants eligible under this FmHA regulation must have had funds obligated on or before December 31, 1977. All special assistance to drought stricken areas funds that were obligated under the water and waste and emergency programs have been expended.

The removal of this regulation will have no effect on the public. The intended effect of this action is to

remove an unneeded regulation from the CFR.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT: Yoonie MacDonald, Loan Specialist, Water and Waste Disposal Division, USDA, FmHA, Room 6318, South Agriculture Building, Washington, DC 20250. Telephone: (202) 382-9586.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291, and has been determined to be exempt from those requirements. The reason for this decision is that the action involved is an internal agency management practice to remove an unneeded regulation from the CFR. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of the action is administrative in nature and publication for comment is unnecessary.

The FmHA programs and projects which are affected by this instruction are subject to State and local clearinghouse review in the manner delineated in FmHA Instruction 1901-H.

Catalog of Federal Domestic Assistance (CFDA) Nos. include: 10.418—Water and Waste Disposal Systems for Rural Communities; and 10.404—Emergency Loans.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1888

Disaster assistance, Rural areas, Water supply.

PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS

Therefore, Chapter XVIII, Title 7, CFR is amended by removing and reserving Part 1888 as follows:

§§ 1888.1-1888.20 [Removed and Reserved]

(7 U.S.C. 1989, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Under

Secretary for Small Community and Rural Development, 7 CFR 2.70)

Dated: April 30, 1982.

Charles W. Shuman,
Administrator, Farmers Home
Administration.

[FR Doc. 82-14007 Filed 5-20-82; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82-050]

Importation of Animals Through the Harry S Truman Animal Import Center; Cooperative and Trust Fund Agreement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document (1) amends the regulations in 9 CFR 92.41(a)(1) by providing an importer the opportunity to use a letter of credit as an additional method of paying the \$1,000 per animal deposit that is required when applying for special authorization to import animals into the United States through the Harry S Truman Animal Import Center (HSTAIC) and by providing that this fee will be nonrefundable if special authorization is granted; and (2) revises the Cooperative and Trust Fund Agreement ("Agreement"), which provides for importation of animals into the United States through the HSTAIC, so that an importer will be released from any financial liability for the fixed costs of operating the USDA-approved embarkation facility or the HSTAIC, if none of his animals qualify to enter the USDA approved embarkation facility and so that the Federal Bond is deleted as a means of paying the costs of importation under the Agreement. The first action provides the importer an additional, probably less expensive and easier, means of paying the \$1,000 per animal deposit and gives notice to the importer that this money is nonrefundable if special authorization is granted. The second action is adopted because the method of operating the USDA-approved embarkation facility and the HSTAIC has been changed and it is no longer necessary to obligate an importer to pay a portion of the fixed costs of quarantining animals in these facilities if his animals do not successfully qualify for entrance into the USDA-approved embarkation facility. Further, the Department has found that the earlier policy of asking all importers, whether their animals qualified for

entrance into the USDA-approved embarkation facility or not, to pay the costs of quarantine in these facilities was so undesirable with importers that they were not applying to use the HSTAIC. Therefore, this policy is changed so that only those importers who actually quarantine animals in these facilities shall pay quarantine costs. The Cooperative and Trust Fund Agreement is modified to conform with these changes. The intended effect of this rule is to provide an additional method of paying the costs of importation and to relieve the financial burden on an importer if his animals do not pass the first stage of importation, i.e., that of qualifying the animals for entrance into the USDA-approved, embarkation facility.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. M. R. Crane, USDA, APHIS, VS, Room 819, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." This rule will not result in any significant effect on the economy; any major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. The final rule would only affect those importers interested in importing animals into the United States through the HSTAIC. This is a relatively small number of entities when compared with the total number of entities which import animals into the United States through other ports annually. Specifically, conservative figures maintained by the Department show that between 10,000 and 15,000 entities import animals annually into the United States through ports other than the HSTAIC. These figures are compared with a much smaller number of

importers who have applied for special authorization to import animals through the HSTAIC. Specifically, 79 individuals applied for the first importation, 6 individuals applied for the second importation, and no applications were received for the third importation, although one individual applied for and was granted use of the HSTAIC on an exclusive use basis.

Alternatives

The alternatives considered in making this decision were: (1) Not to change the regulations; and (2) to amend the regulations as outlined above.

Alternative No. 1 was rejected because it has been shown, historically, that importers are unwilling to import animals through the HSTAIC if they must assume the full cost of operating the quarantine facilities even when their animals do not qualify for entry into the USDA-approved embarkation facility. Further, the Department has been able to modify its operating procedures such that it is no longer necessary to obligate an importer for costs of quarantining animals at the approved embarkation facility or at the HSTAIC when the importer's animals do not enter the USDA-approved embarkation facility.

Alternative No. 2 was selected because the Department believes that allowing an importer to use a letter of credit to pay the \$1,000 application deposit per animal is a more beneficial and less costly alternative than requiring the importer to pay the \$1,000 by a money order or certified check. It is unrealistic to expect an importer to pay \$1,000 for each animal for which special authorization is requested when (1) several months may pass before it is known for certain that special authorization will be granted and (2) the Department can be guaranteed that the money can and will be paid through a letter of credit. Further, revision of the Cooperative Agreement is necessary to reflect the changes being made in the way of operating the quarantine facilities. It would be unnecessary to hold importers liable for costs not actually incurred.

Background

On March 24, 1982, a document was published in the Federal Register (47 FR 12633-12639) which proposed to (1) amend the regulations in 9 CFR 92.41(a)(1) by providing an importer the opportunity to use a letter of credit as an additional method of paying the \$1,000 per animal deposit that is required when applying for special authorization to import animals into the United States through the HSTAIC and by providing

that this fee will be nonrefundable if special authorization is granted; and (2) to revise the Cooperative and Trust Fund Agreement ("Agreement"), which provides for importation of animals into the United States through the HSTAIC, so that an importer is released from any financial liability for the fixed costs of operating the USDA-approved embarkation facility or the HSTAIC, if none of his animals qualify to enter the USDA-approved embarkation facility and so that the Federal Bond is deleted as a means of paying the costs of importation under the Agreement.

The document of March 24, 1982, provided that written comments were to be received on or before April 13, 1982. The proposal was published with the shortened comment period of twenty days because, as explained in the proposal, Dr. J. K. Atwell, Deputy Administrator, VS, APHIS, USDA, had determined that, in accordance with the provisions of 5 U.S.C. 553, good cause was found to do so. Specifically, the Department wished to have the proposed amendments in effect before the next lottery for special authorization to use of the HSTAIC was held. The next lottery is to be held May 24, 1982.

No comments were received in response to the proposal. Based on the reasons set forth in the proposal, the provisions have been adopted as proposed except for minor editorial changes. Further, Dr. J. K. Atwell has determined, in accordance with the provisions of 5 U.S.C. 553, that good cause exists to make this final rule effective upon publication, namely, so that these amendments can be in effect before the May 24, 1982, lottery is held.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended as follows:

1. In § 92.41(a)(1), the fourth sentence is revised to read:

§ 92.41 Requirements for the importation of animals into the United States through the Harry S Truman Animal Import Center.

(a) * * *

(1) * * * Each application shall be accompanied by a certified check,

money order, or letter of credit, consistent with the terms of this section and with the Cooperative and Trust Fund Agreement (9 CFR 92.41(c)), as determined by the Deputy Administrator, payable to the United States Department of Agriculture, Animal and Plant Health Inspection Service, in the amount of one thousand dollars (\$1,000), for each animal for which special authorization is requested on the application: *Provided*, That if special authorization is granted, the \$1,000 per head is nonrefundable; *Provided further*, That if a letter of credit is utilized, the effective date on such letter of credit must run to the date the animals are scheduled to be released from the HSTAIC or billings made by the Service have been paid.

2. Section 92.41(b)(7) is revised to read:

* * * * *

(b) * * *

(7) Fees in Part I of the Agreement shall be based on the number of special authorizations to import animals through the HSTAIC that have been granted to all importers. Fees in Part II of the Agreement shall be based on the number of animals, for which special authorizations were granted to all importers, which have been qualified to enter the USDA-approved embarkation facility.

3. In § 92.41(c), footnote 15 is removed and footnotes 16 and 17 are renumbered 15 and 16, respectively.

4. In § 92.41, paragraph (c), the Cooperative and Trust Fund Agreement is revised to read as follows:

Cooperative and Trust Fund Agreement Between (Name of Importer) and the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services

This Agreement is made and entered into by and between (Name and address of importer) hereinafter referred to as the Cooperator, and the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, hereinafter referred to as the Service.

Whereas, the Service is authorized pursuant to section 2 of the Act of February 2, 1903, as amended, and section 1 of the Act of May 6, 1970 (21 U.S.C. 111 and 135, respectively) to regulate the introduction of animals into the United States in order to prevent the introduction of animal and poultry diseases into the United States; and

Whereas, the Cooperator is interested in the importation of animals into the United States through the Harry S Truman Animal Import Center (HSTAIC), established by the Service pursuant to 21 U.S.C. 135, for a quarantine period scheduled to begin on or about —; and

Whereas, the Cooperator has requested the Service to conduct inspections, perform

laboratory procedures, complete examinations, and supervise the isolation, quarantine, and care and handling of animals to insure that they meet the Department's requirements to enter a USDA-approved embarkation facility in the country of origin; and

Whereas, the Cooperator has requested the Service to conduct inspections, perform laboratory procedures, complete examinations, and supervise the isolation, quarantine, care and handling of animals to insure that they meet the Department's quarantine requirements at the USDA-approved embarkation facility in the country of origin and at the HSTAIC before release into the United States; and

Whereas, It is the intention of the parties hereto that such cooperation shall be for their mutual benefit and the benefit of the people of the United States.

Now, therefore, for and in consideration of the promises and mutual covenants herein contained, the parties do hereby mutually agree with each other as follows:

Part I—Provisions Relating To Qualifying Animals for Entry Into the USDA-Approved Embarkation Facility

A. The Cooperator Agrees:

1.a. To deposit with the Service upon execution of this Agreement the amount of —¹ by certified check or money order to cover the cost to the Department for qualifying his animal(s) in the country of origin for entry into the USDA-approved embarkation facility; or

b. To deposit with the Service upon execution of this Agreement a letter of credit from a commercial bank to the Service in the amount of —¹ consistent with the terms of this Agreement, as determined by the Deputy Administrator, to cover the cost to the Department for qualifying his animal(s) in the country of origin for entry into the USDA-approved embarkation facility.

c. Payment for the costs in Part I incurred by the Cooperator will be due one month (30 days) prior to the day the animals are scheduled for release from the HSTAIC. The letter of credit shall be in effect from the date special authorization is granted to the date the animals are scheduled to be released from the HSTAIC or billings by the Service have been paid. The letter of credit shall be irrevocable for that period except through the mutual consent of the Service and the Cooperator. Billings will be made to the issuer of the letter of credit.

¹ This sum represents the Cooperator's maximum prorata share of the fixed and variable costs to the Department for qualifying the animal(s) into the USDA-approved embarkation facility. This sum was arrived at by applying the following formula:

1. Determine the total number of animal(s) for which special authorization to enter the HSTAIC is being granted to all importers;

2. Determine the established fee per animal, from the applicable published schedule, for the fixed and variable costs of qualifying the number of animal(s) (determined by paragraph 1) into the USDA-approved embarkation facility; and

3. Multiply the established fee per animal (determined by paragraph 2) by the specific number of animal(s) which the Cooperator has received special authorization to enter into the HSTAIC.

d. Upon execution of this Agreement the Cooperator shall become liable for — (which represents his prorata share of the fixed costs for qualifying his animal(s) for entry into the USDA-approved embarkation facility) regardless of the disposition of the Cooperator's animal(s). These monies are necessary to qualify the animal(s) for entry into the USDA-approved embarkation facility and to prepare the USDA-approved embarkation facility for receiving animals. The Cooperator shall also be liable for the variable costs and the costs of testing additional animal(s) (see paragraph 2 of Part I) which are actually incurred by the Cooperator in qualifying his animal(s).

2. To pay the actual cost of testing each animal in excess of the number of animals for which special authorization was issued. If these costs exceed the amount of money deposited or covered by letters of credit, a bill for the extra costs incurred, based on official Service accounting records, will be issued to the Cooperator by the Service and is payable upon receipt.

3. To pay for all laboratory tests deemed necessary by the Department to determine freedom from communicable animal diseases in addition to those identified in the Veterinary Services protocol for qualifying the animal(s) for entry into the USDA-approved embarkation facility.

4. To obtain from foreign Government officials any permits or permission required so that the Service's personnel will have free access to the approved farm of origin isolation facilities in the country of origin so they can properly assess the safety of the animal(s) regarding exposure to communicable animal diseases during the period the animal(s) are in the country of origin.

5. To obtain from the transporting company any necessary permission for the Service's personnel to accompany the animal(s) from the approved farm of origin to the USDA-approved embarkation quarantine facility.

6. That the eligibility of the animal(s) offered for entrance into the USDA-approved embarkation facility shall be determined by the Service.

B. The Service Agrees:

1. To furnish the services of technical and/or professional personnel needed to conduct inspections, perform laboratory procedures, complete examinations, and supervise the isolation, quarantine, and care and handling of the animal(s) being qualified to ensure that they meet the Department's requirements before entering the USDA-approved embarkation facility.

2. To refund to the Cooperator any part of the fees, above the \$1,000 per animal deposit required by 9 CFR 92.41(a)(1), not expended in qualifying the animal(s) to enter the USDA-approved embarkation facility.

Part II—Provisions Relating to the Quarantining of Animals in the USDA-Approved Embarkation Facility and in the HSTAIC

A. The Cooperator Agrees:

1.a. To deposit with the Service upon execution of this Agreement the amount of

—² by certified check or money order to cover the cost to the Department for quarantining the Cooperator's animal(s) at the USDA-approved embarkation facility and the HSTAIC before their release in the United States, or:

b. To deposit with the Service upon execution of this Agreement a letter of credit from a commercial bank to the Service in the amount of —,² consistent with the terms of this Agreement, as determined by the Deputy Administrator, to cover the cost to the Department for quarantining the Cooperator's animal(s) at the USDA-approved embarkation facility and at the HSTAIC.

c. Payment for the costs in Part II incurred by the Cooperator will be due one month (30 days) prior to the day the animals are scheduled for release from the HSTAIC. The letter of credit shall be in effect from the date special authorization is granted to the date the animals are scheduled to be released from the HSTAIC or billings by the Service have been paid. The letter of credit shall be irrevocable for the period except through the mutual consent of the Cooperator and the Service.

d. Upon qualification of any of the Cooperator's animal(s) to enter the USDA-approved embarkation facility, the Cooperator shall become liable for his prorata share³ of the total fixed costs incurred in quarantining all animals at the USDA-approved embarkation facility and at the HSTAIC, regardless of the disposition of any of the Cooperator's animal(s) at either facility. In no instance shall the Cooperator's liability for the fixed costs per animal at the USDA-approved embarkation facility and at the HSTAIC exceed — (equal to the fixed cost portion of the established fee for quarantining an animal at the USDA-approved embarkation facility and the HSTAIC if only 50 animals qualify for such quarantine). These monies are necessary to prepare the animal(s) for entry into the HSTAIC and to prepare the HSTAIC for receiving and quarantining these animals. The Cooperator shall also be liable for the variable costs actually incurred in quarantining his animal(s).

2. To pay for all laboratory tests deemed necessary by the Department to determine

²This sum represents the Cooperator's maximum prorata share of the fixed and variable costs to the Department for quarantining the Cooperator's animal(s) at the USDA-approved embarkation facility and at the HSTAIC. This sum was arrived at by applying the following formula:

1. Determine the established fee per animal from the applicable published schedule, for the fixed and variable costs of quarantining 50 animals in the USDA-approved embarkation facility and in the HSTAIC;

2. Multiply this established fee per animal by the specific number of animal(s) for which the Cooperator has received special authorization to enter into the HSTAIC.

³The Cooperator's prorata share is a percentage figure to be determined as follows:

1. Determine the number of special authorizations awarded to the Cooperator which have been filled with animal(s) qualified to enter the USDA-approved embarkation facility; and

2. Divide that number (paragraph 1) by the total number of special authorizations that have been filled by all the importers with animals qualified to enter the USDA-approved embarkation facility.

freedom from communicable animal diseases in addition to those identified in the Veterinary Service protocol for qualifying animals in the USDA-approved embarkation facility.

3. To pay the actual cost of treatment of any of the Cooperator's animal(s) which require treatment to be cured of a communicable disease of livestock or poultry while at the USDA-approved embarkation facility or at the HSTAIC. Such payment shall be due upon receipt by the Cooperator of a bill for such treatment from the Service.

4. To obtain from foreign Government officials any permits or permission required to ensure that the Service's personnel will have free access to the USDA-approved embarkation facility so they can properly assess the safety of the animal(s) regarding exposure to communicable animal diseases during the period the animal(s) are in the USDA-approved embarkation facility.

5. To provide for the maintenance and operation of the USDA-approved embarkation facility in the foreign country in accordance with approved standards and handling procedures for importation of animals as provided in Part 92 of 9 CFR.

6. All animals which enter the USDA-approved embarkation facility and the HSTAIC will be handled on an "all-in all-out" basis. If any animal in the USDA-approved embarkation facility or the HSTAIC is determined by the Service to be infected with any communicable disease of animals, the remaining animals will be considered to be exposed to such communicable disease.

7. If the Service determines that any of the animals in the USDA-approved embarkation facility are infected with or exposed to foot-and-mouth disease, rinderpest or pleuropneumonia, all animals in that facility shall be refused entry into the HSTAIC and shall be disposed of at the Cooperator's expense. If the Service determines that any of the animals in the HSTAIC are infected with or exposed to foot-and-mouth disease, rinderpest or pleuropneumonia, all such animals in the facility shall be refused entry into the United States and be destroyed in accordance with such conditions as the Deputy Administrator of the Service believes necessary to prevent the dissemination of communicable diseases of animals into the United States.

8. If the Service determines that any of the animals are infected with or exposed to any other communicable disease of animals, such animal shall be treated, if possible, and if cured, become eligible for entry into the United States provided all other requirements under 9 CFR Part 92 are met. However, if it is not possible to treat such animal or if such animal is not cured, then such animal shall be refused entry into the United States and shall be removed from the USDA-approved embarkation facility or the HSTAIC to a country other than the United States within 10 days of the date that the Cooperator is notified by the Service that such animal has been refused entry into the United States. However, at the option of the Cooperator, such animal may be disposed of in accordance with such conditions as the Deputy Administrator of the Service believes

necessary to prevent the dissemination of communicable diseases of animals into the United States.

9. The Cooperator is responsible for the risk of loss for the destruction of any animal subject to this Agreement because of being infected with or exposed to any communicable disease of animals or any other loss or damage to the animal.

10. That the eligibility of the animal(s) offered for entrance into the HSTAIC shall be determined by the Service.

11. To obtain from the transporting company any necessary permission for the Service's personnel to accompany a shipment of animal(s) to the HSTAIC.

12. That the eligibility of the animal(s) offered for import into the United States shall be determined by the Service.

B. The Service Agrees:

1. To furnish the services of technical and/or professional personnel needed to conduct inspection, perform laboratory procedures, complete examination, and supervise the isolation, quarantine, and care and handling of animals being imported to ensure that they meet the Department's quarantine requirements at the USDA-approved embarkation facility and the HSTAIC before release into the United States.

2. To refund to the Cooperator any part of the fees not expended at the USDA-approved embarkation facility and the HSTAIC on a per animal basis.

Part III

C. It Is Mutually Understood and Agreed That:

1. During the performance of this cooperative work, the Cooperator agrees to be bound by the Equal Opportunity and Nondiscrimination provisions as set forth in Exhibit B and Nondiscrimination of Facilities provisions as set forth in Exhibit C, which are attached hereto and made a part hereof.

2. No member of or delegate to Congress or resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom; but this provision shall not be construed to extend to the Agreement if made with a corporation for its general benefit.

3. Part I of this Agreement shall become effective upon date of final signature and shall continue until final settlement of all matters relevant to the period for qualifying animal(s) on the premises of origin in the country of export for entry into the USDA-approved embarkation facility, as determined by the Service.

4. Part II of this Agreement shall become effective upon date of final signature and shall continue until final settlement of all matters relevant to the quarantine periods at the USDA-approved embarkation facility and the HSTAIC, as determined by the Service; *Provided however*, That if less than a total of 50 animals qualify for entry into the USDA-approved embarkation facility, the quarantine period for all animals shall be cancelled at the USDA-approved embarkation facility and at the HSTAIC and both parties shall be released from the provisions in Part II.

5. This Agreement may be amended by agreement of the parties in writing. It may be

terminated by either party upon 30 days' written notice to the other party.
Date _____

Cooperator,
Date _____

Director, NPPS, VS.

(Sec. 2, 32 Stat. 792, as amended; sec. 1, 84 Stat. 202; (21 U.S.C. 111 and 135); 37 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this 17th day of May 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82-14004 Filed 5-20-82; 8:45 am]

BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 132

Implementation of the Equal Access to Justice Act

AGENCY: Small Business Administration (SBA).

ACTION: Interim final rule.

SUMMARY: The Equal Access to Justice Act authorizes the award of attorneys fees and other expenses to certain parties who prevail against the United States in Administrative and judicial proceedings. These regulations concern the procedures for making awards under the Act. These regulations are intended to implement the provisions of the Equal Access to Justice Act, Title II of Pub. L. 96-481. That Act was effective October 1, 1981, and therefore these regulations are final upon the date of this publication. However, the SBA will accept public comments upon these regulations subsequent to publication, and will amend these rules from time to time as necessary. These rules will constitute a new Part 132 of Title 13 of the Code of Federal Regulations.

DATES: These rules are effective May 21, 1982.

ADDRESSES: Comments should be submitted to: Martin D. Teckler, Assistant General Counsel, 1441 L Street NW., Room 700, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Martin D. Teckler, Assistant General Counsel, (202/653-6662).

SUPPLEMENTARY INFORMATION: On October 21, 1980, the President signed the Equal Access to Justice Act, Pub. L. 96-481, 94 Stat. 2325, authorizing the award of attorneys fees and other expenses to certain parties who prevail against the United States in administrative and judicial proceedings. Under the Act, eligible parties are entitled to an award of fees and

expenses unless the United States can demonstrate that its position in the litigation was substantially justified, or other circumstances make an award unjust. The Act applies to civil court actions (other than tort actions) brought by or against the United States and to "adversary adjudications" conducted by Federal agencies, defined as administrative adjudications under section 554 of the Administrative Procedure Act, 5 U.S.C. 554, in which the position of the United States is represented by counsel or otherwise. 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 incorporated 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 Act assigns to agencies the responsibility to make fee awards in their own covered proceedings. Under section 203 of the Act (which is codified in 5 U.S.C. 504), each agency is to establish uniform rules for the submission and consideration of applications for awards, after consultation with the Chairman of the Administrative Conference of the United States.

The Administrative Conference has prepared model regulations in order to facilitate this process. SBA believes they are workable guidelines and proposes to adopt them almost completely as drafted.

In general, these rules concern the procedures for making awards. They are not intended to establish substantive standards for determinations, such as whether the government's proceeding is substantially justified, except to the extent that such standards have been clearly suggested by Congress in the Act or in legislative history. They also include provisions which define or explain the terms used in the statute. We invite comment on whether the rules go too far, or not far enough, in fleshing out the substantive provisions of the Act.

The regulations include five subparts covering the following subjects: (1) General provisions explaining the Act and its standards and eligibility requirements; (2) the fees and expenses

allowable under the Act; (3) the contents of applications for awards; (4) procedures for considering applications, and (5) payments of awards. A detailed explanation of the rules follows.

The rules contain a few terms that require a brief explanation. The Act assigns certain responsibilities for making fee determinations to the "adjudicative officer," defined in 5 U.S.C. 504(b)(1)(D) as "the deciding official, without regard to whether the official is designated as an administrative law judge, a hearing officer or examiner, or otherwise, who presided at the adversary adjudication." In the vast majority of cases, of course, this will be an administrative law judge, but it may not always be. We have used the statutory term throughout to refer to this official. In drafting the rules, we have also sought some way of distinguishing between the agency as a deciding or award-paying body and the agency as a party to the proceeding. The rules generally use "counsel representing the agency" or "agency counsel" to indicate the agency as a party to the proceeding, and "the agency" to indicate the agency in its other roles. The terms are used only for convenience since the Act applies whether or not the person representing the agency in a proceeding is an attorney.

Subpart A—General Provisions

Subpart A contains general provisions explaining the Equal Access to Justice Act and its coverage and some miscellaneous provisions. Several of these are simple and require no extended explanation. Other provisions deal with the proceedings covered, eligibility, the standards for awards, and proceedings involving more than one agency.

Covered Proceedings: Section 132.103 identifies the types of proceedings subject to the Act. The section describes what is meant by an adversary adjudication and states that certain proceedings are not covered by the Act.

The Act applies to adversary adjudications "under section 554" of the Administrative Procedure Act. Paragraph (b) of § 132.103 would permit the award of fees and expenses when SBA voluntarily uses the formal procedures of section 554 as well as when those procedures are required. We believe this approach will avoid extended debate whether particular proceedings are "under" section 554. If the proceeding otherwise qualifies as an "adversary adjudication" and involves issues complex enough, or individual rights important enough, to justify the use of formal procedures, we think it is

within the intendment of the Act. We encourage comment on this question, however.

Eligible parties: Section 132.104 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 Act states that eligibility should be determined as of the time adversary adjudication was initiated, and the rules reflect a literal interpretation of this provision. In some cases, however, an eligible party may intervene in, or be joined in, a proceeding well after it begins.

We propose to define "employees" to include all persons regularly providing services for remuneration for the applicant as of the date the proceedings began.

Paragraph (f) would make it clear that when an applicant has apparently disposed of assets or incurred financial obligations in order to meet the net worth limitations of the Act, the transfers of assets or the obligations will be disregarded in calculating the applicant's net worth. Transactions for less than reasonably equivalent value would be presumed to be for this purpose.

In paragraph (g), the rule deals with the problem of affiliates, such as wholly-owned subsidiaries or businesses under common control. Some or all of these affiliates might be eligible for awards if treated separately, but not if considered together. The provision requires aggregation of the net worth and number of employees of affiliated individuals or entities. Although the Act does not explicitly authorize this type of treatment for affiliated entities, permitting such entities to receive awards seems logically inconsistent with the eligibility provisions of the Act. We invite comment on whether this approach is permissible under the statute.

Assuming it is permissible, additional questions remain. The rule defines "affiliates" as individuals or entities connected to an applicant by a chain of ownership or control of a majority interest. Many other definitions are possible, and commenters are invited to suggest alternatives.

Finally, paragraph (h) of § 132.104 provides that parties will not be eligible for awards when it appears they have participated in proceedings only on behalf of other persons or entities that are ineligible. The rule is designed to prevent ineligible parties planning litigation with the government from using other organizations, which are eligible, to conduct their litigation in order to qualify for fee awards. We note

that the Act does not intend to exclude intervenors on behalf of the "public interest" from eligibility; the legislative history indicates that the Congress considered this question and specifically declined to do so. Rather, it is intended to reach the situation in which an ineligible entity solicits and finances participation by an eligible one.

Standards for awards: Section 132.105 sets out the Act's standards for making fee awards. The applicant is ordinarily entitled to an award if the agency's position in the proceeding (or on a significant, separable issue) was not substantially justified, the rule's definition of "substantially justified" reflects the legislative history's explanation that the standard is "reasonableness in law and fact."

Under paragraph (b) of § 132.105, awards could include fees and expenses incurred before the date a proceeding begins, if they are reasonably necessary to prepare for the proceeding. Paragraph (c) 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.

Subpart B—Allowable Fees and Expenses

This subpart states generally the fees and expenses that may be awarded under the Act. Section 132.201 covers the fees and expenses of attorneys, agents and expert witnesses. The provision restates the Act's direction that awards should be based on prevailing market rates for services, applying this principle even where the services are provided by employees of the party or at a reduced rate.

The provision also includes the Act's ceilings on fees: \$75 per hour for attorneys or agents and, for expert witnesses, the agency's maximum rate for the payment of such experts.

The provision identifies some factors to be used in determining the reasonableness of the fee request—the customary fee of the attorney or agent for similar services, the actual time spent on the case, and the time reasonably spent in light of the difficulty or complexity of the issues in the proceeding. These factors are based loosely on those used by courts in awarding attorneys fees. They differ from those standards, however, in that greater emphasis is placed on the "regular rate" of the attorney, agent or expert witness, when that person is in the business of acting as an attorney, agent or expert witness.

Section 132.201 provides that reasonable expenses of attorneys,

agents and witnesses may be itemized separately from hourly charges, but does not identify the types of expenses covered. "Reasonable expenses" is intended to include the types of expenses customarily charged to clients, such as travel expenses or photocopying, but not items ordinarily included in hourly fees, such as secretarial services. It is intended, moreover, to include only the reasonable portion of such expenses, not items such as first class airfare or duplicating costs above prevailing rates.

Section 132.202 covers awards for the cost of studies, reports and tests. The rule restates the Act's provision that awards may include the reasonable cost of these items when they are necessary for the preparation of the party's case. If the charge for an item exceeds a reasonable cost for the preparation of similar items, the applicant could recover the reasonable portion of the cost. Parties may sometimes enter evidence that is cumulative or studies that are far more elaborate than necessary to make their points. The phrase "reasonable cost" is also intended to be a safeguard against the possibility that SBA would have to pay for such unnecessary items.

Subpart C—Form of Application

Subpart C 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 in 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 allege that the position of the agency was not substantially justified.

The goal of these provisions is to solicit sufficient information on these subjects for agency personnel to make an informed determination on the application without unduly burdening the applicant. The provisions divide the application into three parts.

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. The applicant then states its type (e.g., individual, agricultural cooperative, etc.) and provides basic information on eligibility: The number of employees on the date the proceeding began, for applicants other than individuals; a

description of affiliated individuals or entities, if any, for applicants other than individuals and sole owners of unincorporated businesses; and a statement that the applicant's net worth when the proceeding began did not exceed the ceiling for its type, for all applicants except tax exempt organizations and agricultural cooperatives. In lieu of the net worth declaration, a tax exempt organization would be required either to state that it was included in the current edition of IRS Bulletin 78 (which identifies most qualified tax exempt organizations) when the proceeding began, or, if the organization is a religious organization which is not required to seek IRS approval of its tax exempt status, to submit a description of the organization and an explanation of its belief that it is exempt. An agricultural cooperative would have to include a copy of its charter or articles of incorporation and bylaws to demonstrate its eligibility. The application is to be signed by the applicant or a responsible official of the applicant, who must state that it is true and complete and that he or she is aware that making a false statement in the application is a felony under 18 U.S.C. 1001. The applicant would not be required to include documentary proof of its statements as to number of employees, affiliated corporations, or tax-exempt status. We believe the statement, subject to the penalties of 18 U.S.C. 1001, should be adequate in the first instance.

All applicants except tax exempt organizations and agricultural cooperatives would also have to file a statement of net worth under §132.302. The statement would list the applicant's assets and liabilities, grouped as described in the rule. We solicit comments on whether the groups identified in the rule will provide sufficiently detailed information to permit an informed decision on eligibility, and also on whether they will be convenient and workable for applicants.

For the convenience of applicants who may have prepared a financial statement for another purpose (such as to obtain a bank loan or to file with an income tax return) near the time the proceeding started, the rule would permit the filing of net worth information in any other form that is sufficient to make an eligibility determination. The applicant would have to include a statement describing any adjustments necessary for the material to reflect net worth on the date the proceeding began. The optional form is designed primarily for applicants whose net worth is well below the

ceiling. For these applicants a precise figure is obviously irrelevant, and, consequently, there is need for less detail on this point. This provision is, in effect, a form of "tiering" of the kind encouraged by the Regulatory Flexibility Act, Pub. L. 96-354, 5 U.S.C. 601-612.

Finally, the net worth statement is to include either a description of any transfers of assets or obligations incurred within the three months before the beginning of the proceeding that reduced the applicant's net worth below the applicable net worth ceiling, or a statement that none occurred.

The applicant may request confidential treatment for its statement of net worth by submitting it in a sealed envelope. Under the rule, a statement so submitted would not be disclosed to the public except to enforce 18 U.S.C. 1001 (if the applicant is prosecuted for making a false official statement) or as required by law. In practical terms, "as required by law" means an agency would not disclose the information unless it received a request under the Freedom of Information Act, 5 U.S.C. 552, and then determined that the material could not be withheld under the exemptions to that Act. (In this case, the one most likely to apply would be Exemption 4, 5 U.S.C. 552(b)(4), which protects "trade secrets and commercial or financial information obtained from a person and privileged or confidential.") We have included this provision because we believe applicants should not have to forfeit their privacy to any greater extent than is legally required in order to receive an award. It is unclear, however, whether these statements can usually be withheld under the Freedom of Information Act, and we solicit comment on this issue.

The third section in the subpart explains what must be included in statements of fees and expenses. The provision would require a separate itemized statement of work performed, and fees and expenses claimed, for each attorney (or firm) witness, or agent for whose services an award is requested, verified by the person (or representative of the firm) who performed the services. The application would not have to include documentation of expenses incurred, but records of those expenses would have to be kept in accordance with the Internal Revenue Service's requirements for documentation of business expenses, so that the expenses could be verified on request by the agency. We invite comment on whether the section is specific enough to elicit the information necessary to determine the reasonableness of a request for a fee award.

Subpart D—Procedures for Considering Fee Applications

Proposed subpart D contains the procedures that would govern the consideration of applications for awards. The proposed rules provide for two responsive pleadings: counsel representing SBA may answer the application, and the applicant may reply to the answer. The application and responsive pleadings are to be filed and served under the agency's usual rules. The rules would encourage decision on a written record whenever possible. 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. On request or on his or her own initiative, the adjudicative officer could order such proceedings, including informal conferences, oral argument, additional written submissions, or evidentiary hearings, when necessary to provide an adequate record for decision.

The rules direct the adjudicative officer to issue a decision on the fee application as soon as possible after the conclusion of the proceedings conducted, including written findings in accordance with the mandate of the Act. When applicable, the decision is also to include an allocation of responsibility for payment of an award among other agencies participating in the proceeding. The rules do not include specific standards for such allocation, since we believe the adjudicative officer should make this determination based on the history of the particular proceeding.

The rules contain various deadlines for the filing of pleadings. The time allowed in many cases is somewhat short; even with these deadlines, however, a deserving applicant might have to wait a long time before obtaining an award. The 30-day deadline for filing an application is set by the statute, and the rules reflect our belief that we cannot legally extend this deadline. We intend, however, that the other deadlines could be extended as necessary.

The rules would strongly encourage settlement on awards. They provide that counsel representing the agency may defer filing an answer objecting or consenting to an award for 30 days if he or she has agreed with the applicant to negotiate a settlement. This provision is not intended to limit settlement negotiations to 30 days, but only to provide that amount of time for informal discussions before the agency must take a formal position on the merits of the application.

The rules also state that awards may be settled either in connection with a settlement of the underlying issues in the proceeding or separately. Simultaneous settlement of the merits of a proceeding and of related attorneys' fees claims may potentially create a conflict of interest between parties and their attorneys. We believe, however, that when an award of fees is a likely possibility in a proceeding, attorneys' fees will inevitably be a consideration in settlement negotiations. Permitting a settlement of both aspects of the proceeding at once will be more direct and efficient than requiring a two-part settlement. We invite comments on the advisability of this approach.

Subpart E—Payment

This subpart explains how an applicant who has received a favorable determination on an application may obtain payment. To avoid any appearance of foot dragging or unnecessary delay by the agency, it would commit the agency to pay within 60 days after the applicant shows it is entitled to payment. The rule also states that an agency will not pay an award if any party has sought court review of the agency's action on the award or in the underlying proceeding. This appears to be required by the Act (5 U.S.C. 504(c)(1)), which provides that if a court reviews the agency's decision in the underlying proceeding, *only* the court may make an award. Note that this statutory provision seems to withhold from SBA the ability to make any payment to an applicant if any party to the proceeding asks for judicial review of the underlying decision, even if the applicant has not initiated the appeal.

It is hereby certified that these regulations do not constitute major rules for the purposes of Executive Order 12291. It is further certified pursuant to section 605 of the Regulatory Flexibility Act, 5 U.S.C. 605, that these rules will not have a significant impact on a substantial number of small entities.

List of Subjects in 13 CFR Part

Equal access to justice, Claims, Lawyers.

Accordingly, pursuant to section 5(b)(7) of the Small Business Act, 15 U.S.C. 634(b)(7), and section 504 of the Administrative Procedure Act, 15 U.S.C. 504, the following rules are hereby adopted.

Part 132 is added to 13 CFR to read as follows:

PART 132—RULES FOR IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT**Subpart A—General Provisions**

| Sec. | |
|---------|--------------------------------|
| 132.101 | Purpose of these rules. |
| 132.102 | When the Act applies. |
| 132.103 | Proceedings covered. |
| 132.104 | Eligibility of applicants. |
| 132.105 | Standards for awards. |
| 132.106 | Awards against other agencies. |

Subpart B—Allowable Fees and Expenses

| | |
|---------|---|
| 132.201 | Attorney, agent and expert witness fees. |
| 132.202 | Studies, analyses, engineering reports, tests and projects. |

Subpart C—Form of Application

| | |
|---------|----------------------------------|
| 132.301 | Contents of basic application. |
| 132.302 | Statements of net worth. |
| 132.303 | Statements of fees and expenses. |

Subpart D—Procedures for Considering Applications

| | |
|---------|----------------------------------|
| 132.401 | Filing and service of documents. |
| 132.402 | When applications can be filed. |
| 132.403 | Answers to applications. |
| 132.404 | Replies. |
| 132.405 | Comments by other parties. |
| 132.406 | Settlements. |
| 132.407 | Further proceedings. |
| 132.408 | Decisions. |
| 132.409 | Finality; agency review. |
| 132.410 | Judicial review. |

Subpart E—Payments

| | |
|---------|---------------------|
| 132.501 | Payments of awards. |
|---------|---------------------|

Authority: 5 U.S.C. 504 and 504 note.

Subpart A—General Provisions**§ 132.101 Purpose of these rules.**

The Equal Access to Justice Act, 5 U.S.C. 504 and 504 note, provides for awarding attorney fees and other adjudication expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications") before this Agency. Parties may be able to receive awards when they prevail over the Agency, unless the Agency's position in the proceeding was substantially justified. These rules define eligible parties and identify the kinds of proceedings covered. They also explain how to apply for awards, and the procedures and standards that this Agency will use to make them.

§ 132.102 When the Act applies.

The Act applies to any adversary adjudication pending before the Agency at any time between October 1, 1981, and September 30, 1984. This includes proceedings begun before October 1, 1981, if final Agency action has not been taken before that date, and proceedings pending on September 30, 1984,

regardless of when they were initiated or when final Agency action occurs.

§ 132.103 Proceedings covered.

(a) The Act applies to adversary adjudications conducted by this Agency. An adversary adjudication is an adjudication required to be conducted under 5 U.S.C. 554 in which the position of this or any other agency, or any component of any agency, is represented by an attorney or other representative who enters an appearance and participates in the proceedings. For this Agency, cases ordinarily covered are:

(1) Matters conducted pursuant to section 8(a)(9) of the Small Business Act, 15 U.S.C. 637(a)(9), and

(2) Matters conducted pursuant to sections 309 and 313 of the Small Business Investment Act, 15 U.S.C. 687a and e.

(b) If this Agency orders a particular matter to be determined as an adversary adjudication under the procedures set out in 5 U.S.C. 554, the Act will apply, and this Agency will so state in its order designating the matter of hearing.

§ 132.104 Eligibility of applicants.

(a) In order to be eligible for an award of attorney fees or other expenses under the Act, the applicant must be a party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). For the purpose of determining eligibility, the "party" shall be the person or entity identified in the order or notice initiating the proceeding or permitting intervention in it. All conditions of eligibility set out in this subpart and in Subpart C must be satisfied.

(b) The types of eligible applicants are as follows:

(1) Individuals with a net worth not more than \$1 million;

(2) Sole owners of unincorporated businesses if the owner has a net worth of \$5 million or less and not more than 500 employees;

(3) Charitable or other organizations exempted from taxation by section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) having not more than 500 employees;

(4) Cooperative associations as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141(a)) having not more than 500 employees; and

(5) All other partnerships, corporations, associations or public or private organizations having \$5 million or less net worth than 500 employees.

(c) For the purposes of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(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 business interests.

(e) The employees of an applicant include all those persons regularly providing work at the time the proceeding was initiated, whether or not at work on that date.

(f) An applicant's net worth includes the value of any assets disposed of for the purpose of meeting an eligibility standard and excludes any obligations incurred for this purpose. Transfers of assets or obligations incurred for less than reasonably equivalent value will be presumed to have been made for this purpose.

(g) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. "Affiliates" are other individuals, corporations or other entities directly or indirectly connected to the applicant by a chain of ownership or control of a majority of the voting shares or other interests.

(h) An applicant is not eligible if it appears from the facts and circumstances that it has participated in the proceeding only on behalf of other persons or entities that are ineligible.

§ 132.105 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses unless the position for an agency during the proceeding, or with respect to an ancillary or subsidiary issue in the proceeding, that is sufficiently significant and discrete to merit treatment as a separate unit, was substantially justified. To avoid an award, the agency must carry the burden of proof that its position was reasonable in fact and law. No presumption arises that SBA's position was not substantially justified simply because it did not prevail in a given proceeding.

(b) Awards for fees and expenses incurred before the date on which a proceeding was initiated are allowable only if the applicant can demonstrate that they were reasonably incurred in preparation for the proceeding.

(c) 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.

§ 132.106 Awards against other agencies.

No other agency may intervene or otherwise participate as a party in

proceedings in this agency covered by this part unless it has agreed that it will pay any fee awards for which this agency determines it is liable under these rules, subject to judicial review.

Subpart B—Allowable Fees and Expenses

§ 132.201 Attorney, agent and expert witness fees.

(a) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses. Awards will be calculated on this basis for all fees and expenses actually incurred. If the services were provided by an employee of the applicant or were made available free or at a reduced rate, fees and expenses will be calculated at such reduced rate.

(b) Under the Act, an award for the fees of an attorney or agent may not exceed \$75.00 per hour, regardless of the actual rates charged by the attorney or agent. An award for the fees of an expert witness may not exceed \$25 per hour, regardless of the actual rate charged by the witness.

(c) In determining the reasonableness of the fees sought for attorneys, agents or expert witnesses, the adjudication officer shall consider factors bearing on the request, such as:

(1) If the attorney, agent or witness is in private practice, his or her customary fee for like 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, and

(4) The time reasonably spent in light of the difficulty and complexity of the issues in the proceedings.

§ 132.202 Studies, analyses, engineering reports, tests and projects.

The reasonable cost (or the reasonable portion of the cost) of any study, 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 services does not exceed the prevailing rate payable for similar services, and

(b) The study or other matter was necessary to the preparation of the party's case.

Subpart C—Form of Application

§ 132.301 Contents of basic application.

(a) Applications shall be in writing and shall contain (1) the name of the applicant and the identification of the

proceeding, (2) a declaration that the applicant believes that it has prevailed, and an identification of each issue as to which the position of an agency or agencies in the proceeding was not substantially justified, (3) a statement of the applicant's type (in terms of the types of applicants described § 132.104), (4) for each applicant other than an individual as defined in § 132.104, a statement of the numbers of its employees on the date on which the proceeding was initiated, (5) for each applicant other than an individual or a sole owner of an unincorporated business, a description of any affiliated individuals or entities, as the term "affiliated" is defined in § 132.104, or a statement that none exist, (6) where applicable, a statement that the applicant had a net worth not more than the ceiling established for its type, as of the date which the proceeding was initiated, and (7) any other matters that the applicant believes appropriate.

(b) Applications filed by a tax exempt organization described in § 132.104 shall also contain either (1) a statement that the applicant was listed, on the date of the initiation of the proceeding, in the then-current edition of IRS Bulletin 78, "Organizations qualified under section 170(c) of the Internal Revenue Code of 1954," or (2) if the applicant is a tax exempt religious organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a brief description of the organization and statement of the basis for its belief that it is exempt. Qualified tax exempt organizations are not required to file a statement of net worth.

(c) Applications filed by a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) shall also include a copy of the cooperative's charter or articles of incorporation and of its bylaws. Qualified cooperatives are not required to file a statement of net worth.

(d) All applications shall be signed by the applicant, or a responsible and knowledgeable official of an applicant that is not an individual. The individual signing the application shall state that the application and the statement of the net worth (if any) are true and complete to the best of his or her information and belief, and that he or she understands that the application and statement are official statements subject to section 1001 of the United States Criminal Code (18 U.S.C. 1001), which provides that making a false official statement is a felony punishable by fine and imprisonment. The individual signing the application shall also provide the address and telephone number at which

he or she can be contacted to verify or explain any information in the application.

§ 132.302 Statement of net worth.

(a) Each applicant except a qualified tax exempt organization or a qualified cooperative must submit with its application a detailed exhibit showing its net worth at the time the proceeding was initiated. If any individual, corporation, or other entity directly or indirectly controls or owns a majority of voting shares or other interest of the applicant, or if the applicant directly or indirectly owns or controls a majority of voting shares of other interest of any corporation or other entity, the exhibit must include a showing of the net worth of all such affiliates. The exhibit may be in any form convenient to the applicant, provided that it makes full disclosure of the applicant's and any affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards of 5 U.S.C. 504(b)(1)(B)(i). The adjudicative officer may require an applicant to file additional information to determine the applicant's eligibility for an award.

(b) The net worth exhibit shall describe any transfers of assets from, or obligations incurred by, the applicant or any affiliate, occurring in the one-year period prior to the date on which the proceeding was initiated, that reduced the net worth of the applicant and its affiliates below the applicable net worth ceiling. If there were no such transactions, the applicant shall so state.

(c) The net worth exhibit shall be included in the public record of the proceeding.

§ 132.303 Statements of fees and expenses.

(a) All applications shall be accompanied by an itemized statement or statements of the fees and expenses of the attorneys, expert witnesses, and agents, incurred in connection with the proceeding, for which an award is sought out.

(b) A separate itemized statement, showing the hours spent in work in connection with the proceeding by each individual and a description of what was accomplished, the rate at which fees were computed, the total amount claimed, and the total amount agreed to be paid by the applicant, must be submitted for each person, firm or other entity for which the applicant seeks an award.

(c) The rules governing the allowance of fees and expenses, set forth in Subpart B of this part, shall be followed. Expenses must be verifiable in

accordance with the standards published by the Internal Revenue Service for the documentation of business expenses.

(d) Each separate statement must be verified by the person, firm or other entity performing services for which an award is sought, in accordance with the requirements set forth in paragraph (d) of § 132.301.

Subpart D—Procedures for Considering Applications

§ 132.401 Filing and service of documents.

All Applications for an award of fees, answers, or replies, comments, and other pleadings and documents related to applications shall be filed in the same manner as other pleadings in the proceeding and served on all parties to the proceeding, except as provided in § 132.302(c) for Confidential Statements of Net Worth.

§ 132.402 When applications can be filed.

(a) The Act provides that an application for an award may not be made later than thirty days after final Agency action on the proceeding. This Agency does not have the power to allow exceptions for later filings, and thus the applicant must file and serve the application no later than 30 days after the later of (1) the date which this agency declines to review an initial decision or other proposed disposition of the proceeding by an adjudicative officer, or (2) the date on which the Agency issues an order disposing of petitions to reconsider the Agency's final action, or (3) if no petitions for reconsideration were filed, the date on which they were due.

(b) An application may be filed any time, before the last filing date as determined under paragraph (a) of this section, that the applicant believes that it has prevailed. An applicant has prevailed when the Agency has taken favorable action of one of the types specified in paragraphs (a) (1) through (3) of this section with respect either to the entire proceeding or to an ancillary or subsidiary issue in the proceeding that is sufficiently significant and discrete to merit treatment as a separate unit.

§ 132.403 Answers to applications.

(a) *General.* Within 15 days after service of the application, counsel representing the agency from which an award is sought shall file an answer of one of the types described in paragraphs (b) through (d) of this section. Unless counsel requests and is granted an extension of time for filing, failure to file an answer within the 15-day period will

be treated as a consent to the award requested.

(b) *Counsel.* If the agency counsel does not object to the award requested, he or she shall file an answer consenting to the award.

(c) *Negotiation.* If the agency counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file an answer stating their intent to negotiate a settlement. Within 30 days thereafter the agency counsel shall file an answer consenting or objecting to an award, or a proposed settlement on the application.

(d) *Objection.* If the agency counsel objects to the award requested, he or she shall file an answer objecting, which shall explain in detail the agency counsel's position and identify the facts relied on in support. If the objection is based on any alleged facts not already in the record of the proceeding, the agency counsel shall include with the objection either supporting affidavits or a request for further proceedings under § 132.407.

§ 132.404 Replies.

Within 15 days after service of an objection, 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 § 132.407.

§ 132.405 Comments by other parties.

Any party to a proceeding other than the applicant and agency counsel may file comments on an application or an answer. A commenting party may not participate further in proceedings on the application unless the adjudicative officer determines that the public interest requires additional exploration of matters raised in the comments.

§ 132.406 Settlements.

The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the issues in the underlying proceeding, or after the underlying proceeding has been concluded. If a prevailing party and agency counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 132.407 Further proceedings.

(a) *General.* Ordinarily, the determination of an award will be made on the basis of the written record.

However, on request of either the applicant or the agency counsel, 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, as provided in this section. Further proceedings should not be considered routine and, where necessary, will be conducted as promptly as possible.

(b) *Informal conferences; oral argument.* The adjudicative officer may schedule an informal conference to discuss an application or an oral argument on any issues related to the application whenever he or she believes the conference or argument may be helpful in resolving or in encouraging settlement of the issues.

(c) *Written submissions.* The adjudicative officer may order an applicant, agency counsel, or a party filing comments under § 132.405 to make additional written evidentiary submissions whenever he or she believes they are necessary to provide a record adequate to decide the issues related to the application. A request that the adjudicative officer order written submissions shall specifically identify the information sought and shall explain why the information is necessary to decide the issues.

(d) *Hearings.* The adjudicative officer shall hold an evidentiary hearing only on disputed issues of material fact that cannot be adequately resolved through written submissions. A request for hearing shall specifically identify the disputed issues and the evidence to be presented at the hearing and shall explain why an oral evidentiary hearing is necessary to resolve the issues. The procedures for the hearing are those that apply to the underlying proceeding.

§ 132.408 Decisions.

The adjudicative officer shall issue a decision on the application as promptly as possible after the filing of the last document or the conclusion of the hearing. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, but shall not disclose the net worth of the applicant. The decision on the reasonableness of the amount requested shall include an explanation of the reasons for any difference between the amount requested and the amount awarded. 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 or whether other special

circumstances make an award unjust. If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

§ 132.409 Finality; agency review.

(a) *Finality of adjudicative officer's decision.* Unless the applicant or agency counsel seeks it under paragraph (b) of this section or the agency issues an order taking review of the decision on its own initiative, the adjudicative officer's decision on the application shall become a final decision of the agency 30 days after it is issued.

(b) *Agency review.* The applicant's counsel may seek review of the adjudicative officer's decision on the fee application by filing and serving a petition for review within 20 days after issuance of the decision. The agency may also decide to review an adjudicative officer's decision on its own initiative. Whether to review a decision is a matter within the discretion of the agency. The standard of review will be that ordinarily applied to initial decisions, except that an adjudicative officer's determination on the justification of the agency's position as a party, on whether the applicant unduly prolonged the proceeding and on whether other special circumstances make an award unjust will be reversible only for abuse of discretion. The agency will issue a final decision on the application or remand the application to the adjudicative officer for further proceedings.

§ 132.410 Judicial review.

Judicial review of final agency decisions on awards may be obtained as provided in 5 U.S.C. 504(c)(2).

Subpart E—Payment

§ 132.501 Payment of awards.

An applicant seeking payment of an award shall submit to the Controller of SBA a copy of the Agency's final award along with a statement that it will not seek review (or further review) of the agency decision, or on the award, in the United States courts. The Agency will pay the applicant the amount awarded within 60 days after receiving the applicant's submission, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

Dated: May 17, 1982.

James C. Sanders,
Administrator.

[FR Doc. 82-14086 Filed 5-20-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 81F-0188]

Indirect Food Additives: Polymers; Rubber Articles Intended for Repeated Use

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polyester elastomers produced by the condensation of dimethyl terephthalate, 1,4-butanediol, and α -hydro- ω -hydroxypoly(oxytetramethylene), as components of rubber articles intended for repeated use in contact with food. The substances are limited to use in contact with food that contains not more than 8 percent alcohol at temperatures not greater than 150° F. This action is in response to a petition filed by Springborn Institute Bioresearch, Inc., Spencerville, OH 45887, the parent company of SL Testing Institute, on behalf of Toyobo Co., Ltd., Japan.

DATES: Effective May 21, 1982; objections by June 21, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 7, 1981 (46 FR 35192), FDA announced that a petition (FAP 8B3417) had been filed by SL Testing Institute, Enfield, CT 06082, on behalf of Toyobo Co., Ltd., Japan, proposing that the food additive regulations be amended to provide for the safe use of polyester elastomers produced by the condensation of dimethyl terephthalate, 1,4-butanediol, and α -hydro- ω -hydroxypoly(oxytetramethylene) as articles intended for repeated use in contact with food containing not more than 8 percent alcohol.

FDA has evaluated the data in the petition and other relevant material, and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. In accordance with § 171.1(h) (21 CFR 171.1(h)), the documents FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for public inspection.

The agency 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 need not be prepared. The agency's finding of no significant impact and the evidence supporting this finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives; Polymeric food packaging.

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 177 is amended in § 177.2600(c)(4)(i) by alphabetically inserting a new item in the list of elastomers to read as follows:

§ 177.2600 Rubber articles intended for repeated use.

- * * * * *
- (c) * * *
- (4) * * *
- (i) * * *

Polyester elastomers derived from the reaction of dimethyl terephthalate, 1,4-butanediol, and α -hydro- ω -hydroxypoly(oxytetramethylene); for use only in contact with foods containing not more than 8 percent alcohol and limited to use in contact with food at temperatures not exceeding 150° F.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before June 21, 1982

submit to the Dockets Management Branch (HFA-305) (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective May 21, 1982.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: May 11, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-13900 Filed 5-20-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 177 and 178

[Docket No. 80F-0029]

Indirect Food Additives: Polymers; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of azodicarbonamide as a blowing agent for polyethylene foam articles that contact food and as an adjuvant in the production of polyethylene sealing gaskets for food containers. Voltek, Inc., filed a petition requesting such uses.

DATES: Effective May 21, 1982; objections by June 21, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas C. Brown, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In a notice published in the *Federal Register* of April 11, 1980 (45 FR 24921), FDA announced that a food additive petition (FAP 7B3260) had been filed by Voltek, Inc., 100 Shepard St., Lawrence, MA 01843, proposing that the food additive regulations be amended to provide for the safe use of azodicarbonamide as a blowing agent for polyethylene foam articles that contact food.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed use of the additive is safe and that the regulations should be revised as set forth below. In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

FDA is amending § 178.3010 (21 CFR 178.3010) to add a new substance, azodicarbonamide, for use as a blowing agent in foamed polyethylene complying with item 2.1 of 21 CFR 177.1520, is retitling the regulation as "Adjuvant substances used in the manufacture of foamed plastics," and is making some editorial changes in the regulation. These editorial changes do not change the scope or substance of the existing regulation, but simply permit it to list blowing agents and other adjuvants used in the production of foamed plastics when future regulations permitting such uses are promulgated. Azodicarbonamide is currently regulated under § 177.1210 *Closures with sealing gaskets for food containers* (21 CFR 177.1210) for general use in sealing gaskets at a level of 2 percent. Although the new use of azodicarbonamide specified in § 178.3010 would be included in § 177.1210 by cross reference, FDA is amending § 177.1210 to specifically include the use of azodicarbonamide in

foamed polyethylene at a level of 5 percent. This amendment will prevent confusion over the possible applicability of the current 2-percent limitation on azodicarbonamide as it might apply to foamed polyethylene.

The agency previously considered the potential environmental effects of this rule as announced in the notice of filing published in the *Federal Register*. No new information or comment has been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR

Part 177: Food additives; Polymeric food packaging.

Part 178: Food additives; Food packaging; Sanitizing solutions.

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 28052; May 11, 1981)), Parts 177 and 178 are amended as follows:

1. Part 177 is amended in § 177.1210(b)(5) by revising the entry for "Azodicarbonamide", to read as follows:

§ 177.1210 Closures with sealing gaskets for food containers.

* * * * *

(b) * * *

(5) * * *

| List of substances | Limitations |
|-----------------------|--|
| Azodicarbonamide..... | 1. 2 percent. 2. 5 percent; for use only in the manufacture of polyethylene complying with item 2.1 in § 177.1520(c) of this chapter. |
| * * * * * | |

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

2. Part 178 is amended by revising § 178.3010, to read as follows:

§ 178.3010 Adjuvant substances used in the manufacture of foamed plastics.

The following substances may be

safely used as adjuvants in the manufacture of foamed plastics intended for use in contact with food, subject to any prescribed limitations:

| List of substances | Limitations |
|------------------------------|---|
| Azodicarbonamide..... | For use as a blowing agent in polyethylene complying with item 2.1 in § 177.1520(c) of this chapter at a level not to exceed 5 percent by weight of finished foamed polyethylene. |
| Isopentane..... | For use as a blowing agent in polystyrene. |
| n-Pentane..... | Do. |
| 1,1,2,2-Tetrachloroethylene. | For use only as a blowing agent adjuvant in polystyrene at a level not to exceed 0.3 percent by weight of finished foamed polystyrene intended for use in contact with food only of the types identified in § 178.170(c) of this chapter, table 1, under categories I, II, VI and VIII. |
| Toluene..... | For use only as a blowing agent adjuvant in polystyrene at a level not to exceed 0.35 percent by weight of finished foamed polystyrene. |

Any person who will be adversely affected by the foregoing regulation may at any time on or before June 21, 1982 submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective May 21, 1982.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: May 14, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-13901 Filed 5-20-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 81F-0092]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Antioxidants and/or Stabilizers for Polymers

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of di-*tert*-butylphenyl phosphonite condensation product with biphenyl for use as an antioxidant and/or stabilizer for olefin polymers intended to contact food. This action is in response to a petition filed by Sandoz Colors and Chemicals, Division of Sandoz, Inc.

DATES: Effective May 21, 1982; objections by June 21, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of April 14, 1981 (46 FR 21826), FDA announced that a petition (FAP 1B3546) had been filed by Sandoz Colors and Chemicals, Division of Sandoz, Inc., 59 Route 10, Hanover, NJ 07936, proposing that § 178.2010 (21 CFR 178.2010) be amended to provide for the safe use of di-*tert*-butylphenyl phosphonite condensation product with biphenyl for use as an antioxidant and/or stabilizer for olefin polymers intended to contact food.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with

the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding, contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742), may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives; Food packaging; Sanitizing solutions.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 178 is amended in § 178.2010(b) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

| Substances | Limitations |
|---|---|
| Di- <i>tert</i> -butylphenyl phosphonite condensation product with biphenyl produced by the condensation of 2,4-di- <i>tert</i> -butylphenol with the Friedel-Crafts addition product (phosphorus trichloride and biphenyl) so that the food additive has a minimum phosphorus content of 5.4 percent, an acid value not exceeding 10 mg KOH/gm, and a melting range of 85° C to 110° C (185° F to 230° F). | For use only at levels not to exceed 0.1 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, item 1.1, 2.1, 2.2, 3.1, or 3.2, and used in contact with food only under conditions of use B through H described in table 2 of § 178.170(c) of this chapter. |

Any person who will be adversely affected by the foregoing regulation may at any time on or before June 21, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection

shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective May 21, 1982.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: May 12, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-13899 Filed 5-20-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject To Certification; Fluprostenol Sodium Injection; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for fluprostenol sodium injection from ICI Americas, Inc., to Bayvet Division of Cutter Laboratories, Inc. The firm filed a supplemental new animal drug application (NADA) providing for the change.

EFFECTIVE DATE: May 21, 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: Bayvet Division of Cutter Laboratories, Inc.,

P.O. Box 390, Shawnee Mission, KS 66201, filed supplemental NADA 111-529 providing for its sponsorship of Equimate, a fluprostenol sodium injection. By letters, ICI Americas, Inc., the former sponsor, and Bayvet Division of Cutter Laboratories, Inc., confirmed the transfer of sponsorship.

The supplemental NADA for the change of sponsor is approved and the regulations are amended to reflect the approval.

Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), the incorporate transfer of an NADA is a Category I change that does not require reevaluation of the safety and effectiveness data in the parent application.

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.

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

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 in § 522.995 *Fluprostenol sodium injection* in paragraph (b) by removing drug sponsor code "011511" and inserting in its place "000859".

Effective date. May 21, 1982.

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

Dated: May 5, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-13736 Filed 5-20-82 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Hygromycin B

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 for Old Monroe Elevator & Supply Co., Inc., providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine feeds for control of large roundworms, nodular worms, and whipworms; and for making complete chicken feeds for control of large roundworms, cecal worms, and capillary worms.

EFFECTIVE DATE: May 21, 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: Old Monroe Elevator & Supply Co., Inc., Old Monroe, MO 63369, is the sponsor of NADA 128-834 providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine and chicken feeds. The complete swine feed is used as an aid in the control of large roundworms, nodular worms, and whipworms. The complete chicken feed is used as an aid in the control of large roundworms, cecal worms, and capillary worms. This NADA was filed by Elanco Products Co. for the sponsor. Elanco authorized use of the safety and effectiveness data contained in their approved NADA's 10-918 and 11-948 to support this application. This approval does not change the approved use of the drug. Consequently, approval of the NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of NADA 128-834 does not require reevaluation of the safety and effectiveness data in NADA's 10-918 and 11-948. NADA 128-834 is approved, and the regulations are amended to reflect the approval. Satisfactory chemistry, manufacturing, and control information were also submitted.

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.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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 § 558.274 *Hygromycin B* by adding, in numerical sequence, drug sponsor code "026948" to paragraph (a)(4) and to the "sponsor" column in paragraph (e)(1) (i) and (ii).

Effective date. May 21, 1982.

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

Dated: May 7, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-13545 Filed 5-20-82; 8:45 am]

BILLING CODE 4160-01-M

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 for Good-Life, Inc., providing for safe and effective use of a premix containing 5 grams per pound each of tylosin and

sulfamethazine for making complete swine feeds.

EFFECTIVE DATE: May 21, 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: Good-Life, Inc., Good-Life Drive, P.O. Box 687, Effingham, IL 62401, is the sponsor of NADA 128-411 submitted on its behalf by Elanco Products Co. This NADA provides for use of a premix containing 5 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine for making complete swine feeds used to maintain weight gains and feed efficiency in the presence of atrophic rhinitis, lower the incidence and severity of *Bordetella bronchiseptica* rhinitis, prevent swine dysentery (vibronic), and control swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*).

Approval of this NADA is based on safety and effectiveness data contained in Elanco's approved NADA's 12-491 and 41-275. Elanco has authorized use of the data in NADA's 12-491 and 41-275 to support approval of this application. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as would approval of a Category II supplemental NADA and does not require reevaluation of the safety and effectiveness data in NADA 12-491 or NADA 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 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.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMALS FEEDS

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 *Tylosin and sulfamethazine* by adding, in numerical sequence, drug sponsor code "021810" to paragraph (b)(9).

Effective date. May 21, 1982.

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

Dated: May 7, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-13546 Filed 5-20-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

Law and Order on Indian Reservations

May 14, 1982.

AGENCY: Bureau of Indian Affairs,

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to update the listing of Courts of Indian Offenses under section 11.1(a) by adding the Red Lake Court of Indian Offenses to the list. This amendment is necessary to reflect the true status of the Red Lake court which was inadvertently omitted from the listing when it was first published in the *Federal Register* in 1978. This amendment will effectively update the listing and eliminate the confusion concerning the status of the Red Lake Court of Indian Offenses.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT:

Patrick A. Hayes, Chief, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian

Affairs, Washington, D.C. 20245.

Telephone number: (202) 343-6857.

SUPPLEMENTARY INFORMATION: The Red Lake Court of Indian Offenses is added to the listing because the Red Lake Tribal Council has, by Resolution No. 70-81, dated June 4, 1981, stated its position that it has never intended to change the status of the Red Lake Court of Indian Offenses since its creation in 1884, and that, therefore, the court had wrongfully been omitted from the listing. The Red Lake Tribe is not organized under the Act of June 18, 1934, 25 U.S.C. 461 *et seq.*, and is therefore not subject to 25 CFR 11.1(d). This addition will clarify the status of the court for the members of the tribe, and will enable the court system to effectively administer justice on the Red Lake Reservation. It is contemplated that the Red Lake Court of Indian Offenses will be able to entertain any potential challenge to decisions of the Red Lake Election Board if the tribal election ordinance permits judicial review.

This amendment is made under the authority contained in 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Department of the Interior has determined that this document is not a major rule under the criteria established by Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act.

Since the purpose of this amendment to § 11.1(a) is to correct a previous omission to the listing of Courts of Indian Offenses by adding the Red Lake Court of Indian Offenses to reflect the true status of the court, advance notice and public procedure are dispensed with under the exception provided in subsection (b)(B) of 5 U.S.C. 553 (1970). In addition, the usual 30 calendar days deferred effective date period is dispensed with under the exception provided in subsection d(3) of 5 U.S.C. 553 (1970) because it is essential that a clarification of the status of the Red Lake Court of Indian Offenses not be delayed to avoid any further confusion concerning the jurisdiction of the court and to ensure the effective administration of justice.

The principal author of this document is Patrick A. Hayes, Chief, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs.

List of Subjects in 25 CFR Part 11

Courts; Indian law; Law enforcement; and Penalties.

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

Section 11.1 of Part 11 of Subchapter B, Chapter 1 of Title 25 of the Code of Federal Regulations is amended by adding (a)(31) to read as follows:

§ 11.1 Application of regulations.

(a) Except as otherwise provided in this part, §§ 11.1–11.87 of this part apply to the following Indian reservations:

* * * * *

(31) Red Lake (Minnesota)

* * * * *

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 82-13976 Filed 5-20-82; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF JUSTICE**Office of the Attorney General****28 CFR Part 50**

[Order No. 977-82]

Procedures To Be Followed by Government Attorneys Prior To Filing Recusal or Disqualification Motions

AGENCY: Justice Department.

ACTION: Final rule.

SUMMARY: The issue of the government requesting that a judge not participate in a particular case is a sensitive question, requiring the assessment of all facts and circumstances. This notice sets forth the Department's rules to be followed by government attorneys who during the course of litigation seek to recuse or disqualify a justice, judge, or magistrate. According to the procedures, no motion to recuse or disqualify can be made without prior authorization by the Assistant Attorney General or his appropriate designee.

EFFECTIVE DATE: May 12, 1982.

FOR FURTHER INFORMATION CONTACT: Dennis Linder, Civil Division, Room 3744, 10th & Pennsylvania Avenue, NW., Washington, D.C., 20530 (202-633-3314).

SUPPLEMENTARY INFORMATION: The requirements of Executive Order No. 12291 (improving government regulations) do not apply to these procedures because they do not constitute a "major rule" within the meaning of Section 1(b) of E.O. 12291. Additionally, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply because these

procedures are not a "rule" under Section 601(2) of that Act.

List of Subjects in 28 CFR Part 50

Courts, Judges, Law, Lawyers.

PART 50—STATEMENTS OF POLICY

Accordingly, by the authority vested in me as Attorney General by 5 U.S.C. 301 and 28 U.S.C. 509, 510, and 516, a new § 50.19 to be read as follows, is added to Chapter I of Title 28, Code of Federal Regulations:

§ 50.19 Procedures to be followed by Government attorneys prior to filing recusal or disqualification motions.

The determination to seek for any reason the disqualification or recusal of a justice, judge, or magistrate is a most significant and sensitive decision. This is particularly true for government attorneys, who should be guided by uniform procedures in obtaining the requisite authorization for such a motion. This statement is designed to establish a uniform procedure.

(a) No motion to recuse or disqualify a justice, judge, or magistrate (*see, e.g.*, 28 U.S.C. 144, 455) shall be made or supported by any Department of Justice attorney, United States Attorney (including Assistant United States Attorneys) or agency counsel conducting litigation pursuant to agreement with or authority delegated by the Attorney General, without the prior written approval of the Assistant Attorney General having ultimate supervisory power over the action in which recusal or disqualification is being considered.

(b) Prior to seeking such approval, Justice Department lawyer(s) handling the litigation shall timely seek the recommendations of the United States Attorney for the district in which the matter is pending, and the views of the client agencies, if any. Similarly, if agency attorneys are primarily handling any such suit, they shall seek the recommendations of the United States Attorney and provide them to the Department of Justice with the request for approval. In actions where the United States Attorneys are primarily handling the litigation in question, they shall seek the recommendation of the client agencies, if any, for submission to the Assistant Attorney General.

(c) In the event that the conduct and pace of the litigation does not allow sufficient time to seek the prior written approval by the Assistant Attorney General, prior oral authorization shall be sought and a written record fully reflecting that authorization shall be subsequently prepared and submitted to the Assistant Attorney General.

(d) Assistant Attorneys General may delegate the authority to approve or deny requests made pursuant to this section, but only to Deputy Assistant Attorneys General or an equivalent position.

(e) This policy statement does not create or enlarge any legal obligations upon the Department of Justice in civil or criminal litigation, and it is not intended to create any private rights enforceable by private parties in litigation with the United States.

Dated: May 12, 1982.

William French Smith,
Attorney General.

[FR Doc. 82-13997 Filed 5-20-82; 8:45 am]

BILLING CODE 4410-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**29 CFR Part 1601****706 Agencies; Handling of Employment Discrimination Charges**

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges, within their jurisdictions, filed with the Commission. Publication of this amendment effectuates the designation of the York (PA.) Human Relations Commission as a 706 Agency.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT: Franklin F. Chow, Equal Employment Opportunity Commission, Office of Field Services, State and Local Division, 2401 E. St., N.W., Washington, D.C. 20506, telephone 202/634-6905.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—PROCEDURAL REGULATIONS

In Title 29, Chapter XIV of the Code of Federal Regulations, § 1601.74(a) is amended by adding in alphabetical order the following agency:

§ 1601.74 Designated and notice agencies.

(a) * * *

York (PA.) Human Relations
Commission

(Sec. 713(a) 78 Stat. 265 [42 U.S.C. 20003—
12(a)])

Signed at Washington, D.C. this 17th day of
May, 1982.

For the Commission.

John E. Rayburn,

Director, State and Local Division.

[FR Doc. 82-13872 Filed 5-20-82; 8:45 am]

BILLING CODE 6570-06-M

POSTAL SERVICE

39 CFR Part 111

Effective Date for Requester Rule for Alternative II (Formerly Controlled Circulation) Publications

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: On March 2, 1982, the Board of Governors of the Postal Service set an effective date of October 1, 1982, for the requirement that controlled circulation type publications have a legitimate list of persons who request the publications to be eligible for mailing as second-class mail. Accordingly, postal regulations are being changed to specify that the effective date of the requester rule will be October 1, 1982.

EFFECTIVE DATE: June 21, 1982.

FOR FURTHER INFORMATION CONTACT:
Jerry Lease (202) 245-4657.

SUPPLEMENTARY INFORMATION: On January 25, 1982, a change to section 422.6d of the Domestic Mail Manual (DMM) was published in the Federal Register to correct an erroneously set effective date. The effective date implemented a requirement that alternative II (formerly controlled circulation) second-class publications be circulated primarily to persons requesting the publication (47 FR 3352). In the January 25 notice, the Postal Service stated that the Board of Governors had not yet acted to set an effective date for the requester requirement, and that notice of any action taken would be published in the Federal Register.

Also on January 25, 1982, the Postal Service published a solicitation of comments regarding the possible elimination of both the subscriber and requester requirements for all regular-rate second-class publications (47 FR 3377). Public comment was invited in order to determine whether the Postal

Service should file a request with the Postal Rate Commission to eliminate the paid subscriber and requester requirements.

On February 24, 1982, the Postal Service published notice of a meeting of the Board of Governors to be held on March 1 and 2, 1982 (47 FR 8121). The published agenda for that meeting included an item on the requester requirement. The notice stated:

The Board will consider whether to authorize a filing with the Postal Rate Commission for a change in the Domestic Mail Classification Schedule to eliminate the requirement in section 200.0110f that publications must have a legitimate list of persons who request the publication to be eligible as second-class mail or, in the alternative, to set an effective date for this requirement. The Classification Schedule currently states that subsection f will not be effective prior to March 20, 1982; the Board has not previously determined the date on which this subsection shall become effective.

A majority of the comments received in response to the January 25, 1982, solicitation of comments favored retention of the subscriber and requester requirements for second-class publications. After reviewing the comments, the Board of Governors decided to set an effective date of October 1, 1982, for the requester requirement. In accordance with that decision, section 422.6d of the Domestic Mail Manual (DMM), amended on January 25, 1982, to state that the requester rule would not be effective before March 20, 1982, is now further revised to specify that the effective date of the requester rule will be October 1, 1982.

The title of 422.6 is also being revised to reflect the Governors' decision merging second-class and controlled circulation mail. The title "Controlled Circulation Publications" is changed to "Alternative II Publications (formerly Controlled Circulation)."

List of Subjects in 39 CFR Part 111

Postal Service.

In view of the above considerations, the Postal Service hereby adopts the following changes to the Domestic Mail Manual, which is incorporated by reference in the Federal Register (39 CFR 111.1).

PART 422—TYPES OF AUTHORIZATIONS

In 422.6, revise the heading and paragraph d. to read as follows:

422.6 *Alternative II Publications (formerly Controlled Circulation).*

d. Effective October 1, 1982, the publication must have a legitimate list of persons who request the publication, and 50 percent or more of the copies of the publication must be distributed to persons making such requests. Subscription copies paid for or promised to be paid for including those at or below a nominal rate may be included in the determination of whether the 50 percent requester requirement is met. Persons will not be deemed to have requested the publication if their request is induced by a premium offer or by receipt of material consideration. Requests which are more than three years old will not be considered to meet this requirement.

A transmittal letter making this change in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of this change will be published in the Federal Register as provided in 39 CFR 111.3.

(39 U.S.C. 401(2), 404(a)(2), 3825(f))

W. Allen Sanders,

Associate General Counsel, Office of General
Law and Administration.

[FR Doc. 82-13999 Filed 5-20-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[A-6-FRL-2128-6]

Delegation of Additional Authority to the State of Arkansas for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP)

AGENCY: Environmental Protection
Agency.

ACTION: Information notice.

SUMMARY: On September 14, 1981, EPA delegated the authority for implementation and enforcement of existing New Source Performance Standards and National Emission Standards of Hazardous Air Pollutants (except demolition and renovation of buildings containing asbestos) to the State of Arkansas.

On March 11, 1982, the Arkansas Department of Pollution Control and Ecology (ADPCE) requested delegation of authority to implement and enforce future NSPS and NESHAP requirements. On March 25, 1982, EPA granted this additional authority to ADPCE by modifying Condition 4 of the NSPS/NESHAP delegation agreement.

EFFECTIVE DATE: March 25, 1982.

ADDRESS: Copies of the State request and State/EPA agreement for delegation of authority are available for public inspection at the Air Branch, Air and Waste Management Division, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Jr., Chief, Technical Section, Air Branch, address above, telephone (214) 767-1594 or (FTS) 729-1594.

SUPPLEMENTARY INFORMATION: On March 11, 1982, the State of Arkansas submitted to EPA, Region 6, a request for delegation of additional authority to the ADPCE for the implementation and enforcement of future NSPS and NESHAP programs. After a thorough review of the request and information submitted, the Regional Administrator determined that the State's pertinent laws and the rules and regulations of the ADPCE were adequate and effective to implement and enforce future NSPS and NESHAP requirements. Therefore, Condition 4 of the NSPS/NESHAP agreement letter was amended on March 25, 1982, as follows:

4. The Arkansas Department of Pollution Control and Ecology is authorize to implement and enforce all future NSPS and NESHAP requirements without making a written request to EPA, subject to the delegation conditions and terms as set forth in the delegation agreement letter dated September 14, 1981.

Under Executive Order 12291, EPA must judge whether a publication is "major" and therefore subject to the requirements of a regulatory impact analysis. The delegation of authority is not "major", because it is an administrative change, and no additional burdens are imposed on the parties affected.

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

This delegation is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 7411 and 7412).

Dated: April 29, 1982

Frances E. Phillips,
Regional Administrator.

[FR Doc. 82-13906 Filed 5-20-82; 6:45 am]

BILLING CODE 6560-50-M

40 CFR Part 123

[A&WM-4-FRL 2128-1]

Hazardous Waste Management Programs; Georgia: Authorization for Interim Authorization Phase II Components A and B

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination.

SUMMARY: The State of Georgia has applied for Interim Authorization Phase II Components A and B, which allows the State rather than the Environmental Protection Agency to issue or deny permits regulating the operation of facilities that treat and store hazardous waste. EPA has reviewed Georgia's application for Phase II Components A and B and has determined that Georgia's hazardous waste program is substantially equivalent to the Federal program covered by Components A and B. The State of Georgia is hereby granted Interim Authorization for Phase II Components A and B to operate the State's hazardous waste program covered by Components A and B, in lieu of the Federal program.

EFFECTIVE DATE: Interim Authorization Phase II Components A and B for Georgia shall become effective on May 21, 1982.

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 (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), to protect human health and the environment from the improper management of hazardous waste. The Act (RCRA) includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that State in lieu of a Federally administered program. For a State program to receive final authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State agency Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make whatever legislative or regulatory changes that may be needed for the State's hazardous waste program

to become fully equivalent to the Federal program. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

Phase I regulations were published on May 19, 1980, and became effective on November 19, 1980. The Phase I regulations include the identification and listing of hazardous wastes, standards for generators and transporters of hazardous wastes, standards for owners and operators of treatment, storage and disposal facilities, and requirements for State Programs. The Phase II regulations cover the procedures for issuing permits under RCRA and the standards that will be applied to treatment, storage, and disposal facilities in preparing permits. In the January 26, 1981, Federal Register (46 FR 7965), the Environmental Protection Agency announced that States could apply for 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 (46 FR 8298), January 26, 1982.

The State of Georgia received Interim Authorization for Phase I on February 3, 1981.

Draft Application

The State of Georgia submitted its draft application for Phase II Interim Authorization on August 21, 1981. After detailed review, EPA identified several areas of major concern and transmitted comments to the State for its consideration. After reviewing these comments, State Officials determined that the issues raised by EPA could be resolved without changes in State regulations or legislation. Georgia subsequently made revisions to the Program Description, Memorandum of Agreement, and Attorney General's Statement to answer those questions or issues that had been raised during the review of the draft application.

Final Application

On February 22, 1982, Georgia submitted to EPA a Final Application for Interim Authorization, Phase II

Components A and B under RCRA. An EPA review team consisting of both Headquarters and Regional Office personnel made a detailed analysis of Georgia's Hazardous Waste Management Program.

One major question raised in the comments submitted to the State was whether the State had the authority to grant exemptions from the hazardous waste permitting requirements. Other issues included: (1) The need to clarify procedures for issuing emergency permits, (2) the need for the Authorization Plan to include a commitment to amend the State's regulations with respect to public participation in the permitting process, (3) the need to explain the procedures for granting trial burn and incineration permits, and (4) the need to explain whether hazardous waste management facilities that have been operating under short term variances could continue to operate when the variances expire.

By letters dated April 6, 1982, and April 12, 1982, the State responded satisfactorily to the issues raised by EPA. In those letters the State clarified certain issues and amended portions of the State's application. It is evident that the State statutes and regulations which give authority to grant exemptions relate only to the universe of waste regulated by the State. They do not allow the State to grant exemptions from permitting requirements. Georgia has agreed in the MOA, with regards to the State procedures for issuing emergency permits, to follow the procedures outlined in 40 CFR 122.27.

The State amended its Authorization Plan to include a commitment to amend section 391-3-11 of its regulations to clarify that the public participation provisions EPA promulgated at 46 FR 36704-36706, July 15, 1981, govern the permitting process for hazardous waste management facilities. Further, the State has agreed in the MOA to hold a public hearing if the Director receives written notice of opposition to issuance of a permit and a request for a public hearing within 45 days of the notice of intent to issue a permit.

The State explained that trial burn and incineration permits will be subject to the public participation requirements of section 7004(b) of RCRA.

The State amended the Program Description to make it clear that hazardous waste management facilities that have been operating under short term variances could continue to operate when the variances expire only if the facility enters into a legally

binding Consent Agreement with the State.

One issue that has arisen in connection with Phase II interim authorization is whether authorization will extend to the permitting of existing storage surface impoundments and existing incinerators. EPA has proposed to temporarily suspend the regulations for existing storage surface impoundments and existing incinerators pending EPA review of their cost effectiveness. Pending a final decision, EPA has tentatively decided to authorize States to permit all facilities covered by components A and B. If EPA does suspend the regulations for these facilities, the State's ability to issue State RCRA permits for those facilities (existing storage surface impoundments and existing incinerators) will automatically be suspended. Accordingly, the State's MOA has been amended adding a statement explaining what effect a suspension of the EPA regulations for existing storage surface impoundments and existing incinerators would have on the State's program.

Public Hearing and Comment Period

As noticed in the Federal Register on March 12, 1982 (47 FR 10861), EPA gave the public until April 19, 1982, to comment on the State's application. EPA held a public hearing in Atlanta, Georgia on April 12, 1982.

No oral comments were received at the public hearing; written comments submitted directly to EPA are summarized below along with EPA's responses. Region IV received four written comments on the Georgia application by the close of the comment period on April 19, 1982.

Comments 1-3: Three of the written comments favored EPA granting Georgia Phase II authorization. One commenter contended that the State has done an outstanding job in carrying out Federal and State environmental regulations. Another emphasized that the State government should have the major responsibility for waste management since the State is more familiar with local problems and would be more responsive to local concerns, and Georgia EPD has an excellent reputation in managing other environmental programs. The third commenter favored authorization because Georgia has demonstrated it has the necessary resources to manage the Hazardous Waste Program.

EPA Response: No response needed.

Comment 4: Georgia also applied for authorization to implement the

temporary Federal permitting program for new land disposal facilities contained in 40 CFR Part 267. This written comment opposed EPA delegating authority to the State for this program.

EPA Response: Temporary regulations which allow EPA to permit new land disposal facilities were promulgated on February 13, 1981 (46 FR 12414-12433). The preamble for the temporary regulations explained that EPA would not authorize State land disposal permit programs based upon temporary regulations.

Decision

EPA has reviewed the State Georgia's complete application for Interim Authorization Phase II Components A and B and has determined that the State program is substantially equivalent to the Phase II Components A and B of the Federal program as defined in 40 CFR Part 123, Subpart F. In accordance with section 3006(c) of RCRA, the State of Georgia is hereby granted Interim Authorization for Phase II Components A and B to operate the State's hazardous waste program governed by Components A and B, in lieu of the Federal program.

Compliance With Executive Order 12291

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

Authority

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Certification: Georgia Application for Interim Authorization, Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: May 4, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-13991 Filed 5-20-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 761

[OPTS-62025; TSH-FRL 2131-3]

Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Incorporations by Reference Update

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In conformance with 1 CFR Part 51 EPA is establishing the necessary section to include incorporations by reference in 40 CFR Part 761.

DATES: This final rule is effective May 21, 1982.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Office of Pesticides and Toxic Substances (TS-788), Rm. E-125, Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460, (202-382-3637).

SUPPLEMENTARY INFORMATION: In conformance with the requirements of 1 CFR Part 51, EPA is establishing the necessary section to include 40 CFR Part 761 incorporations by reference. Information needed to meet incorporation by reference requirements has been consolidated in § 761.19. Specific test references contained in §§ 761.60 and 761.75 (formerly §§ 761.10 and 761.41, respectively) are being amended to provide citations to this material.

This regulation is a nonsubstantive redesignation and as such requires no opportunity for comment or public participation.

(Sec. 6, 90 Stat. 2020, (15 U.S.C. 2065))

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements.

Dated: May 14, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

PART 761—POLYCHLORINATED BIPHENYLS (PCBs) MANUFACTURING, PROCESSING, DISTRIBUTION IN COMMERCE AND USE PROHIBITIONS

Therefore, Subpart A of 40 CFR Part 761 is amended by adding § 761.19 to read as follows:

§ 761.19 References.

(a) [Reserved].

(b) *Incorporations by reference.* The following material is incorporated by reference, and is available for inspection at the Office of the Federal Register Information Center, Rm. 8301, 1100 L St. NW., Washington, DC 20408. These incorporations by reference were approved by the Director of the Office of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**. Copies of the incorporated material may be obtained from the Environmental Protection Agency Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, Rm. 106, 401 M St., SW., Washington, D.C. 20460, and from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

| | CFR Citation |
|--|--|
| ASTM D93-77 Standard Test Method for Flash Point by Pensky-Martens Closed Tester. | § 761.60(a)(3)(iii)(B)(6); § 761.75(b)(8)(iii). |
| ASTM D129-64 (Reapproved 1978) Standard Test Method for Sulfur in Petroleum Products (General Bomb Method). | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D240-76 (Reapproved 1980) Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuel by Bomb Calorimeter. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D482-74 Standard Test Method for Ash from Petroleum Products. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D624-76 Standard Test Method for Ramsbottom Carbon Residue of Petroleum Products. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D808-63 (Reapproved 1976) Standard Test Method for Chlorine in New and Used Petroleum Products (Bomb Method). | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D923-74 Standard Test Method for Sampling Electrical Insulating Liquids. | § 761.60(g)(1)(ii); § 761.60(g)(2)(ii). |
| ASTM D1266-70 (Reapproved 1975) Standard Test Method for Sulfur in Petroleum Products (Lamp Method). | § 761.60(a)(3)(iii)(B)(6). |

| | CFR Citation |
|--|----------------------------|
| ASTM D1796-68 (Reapproved 1977) Standard Test Methods for Water and Sediment in Crude Oils and Fuel Oils by Centrifuge. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D2158-85 (Reapproved 1975) Standard Test Method for Residues in Liquefied Petroleum (LP) Gas. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D2709-68 (Reapproved 1977) Standard Test Method for Water and Sediment in Distillate Fuel by Centrifuge. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D2784-70 (Reapproved 1975) Standard Test Method for Sulfur in Liquefied Petroleum Gases (Oxyhydrogen Burner or Lamp). | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D3178-73 (Reapproved 1979) Standard Test Methods for Carbon and Hydrogen in the Analysis Sample of Coke and Coal. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D3278-73 Standard Test Methods for Flash Point of Liquid by Setflash Closed Tester. | § 761.75(b)(8)(iii). |
| ASTM E258-67 (Reapproved 1977) Standard Test Method for Total Nitrogen Inorganic Material by Modified KJELDAHL Method. | § 761.60(a)(3)(iii)(B)(6). |

[FR Doc. 82-13969 Filed 5-20-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-776; RM-3958]

Radio Broadcast Services, FM Broadcast Station in Gallup, N.M.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 256 to Gallup, New Mexico, in response to a petition filed by John R. Catsis. The assignment could provide a third FM service to Gallup.

DATE: Effective July 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Gallup, New Mexico), BC Docket No. 81-776, RM-3958.

Report and Order (Proceeding Terminated)

Adopted: May 12, 1982.

Released: May 17, 1982.

1. The Commission herein considers the Notice of Proposed Rule Making, 46 FR 39561, published December 7, 1981, proposing the assignment of Class C Channel 256 to Gallup, New Mexico. The Notice was issued in response to a petition filed by John R. Catsis ("petitioner"). Supporting comments were filed by the petitioner, restating his intention to apply for the channel, if assigned. Comments in opposition to the proposal were filed by Road Runner Radio, Inc. ("RRR"), to which petitioner responded.¹

2. Gallup (population 18,161),² seat of McKinley County (population 54,950), is located approximately 192 kilometers (120 miles) west of Albuquerque, New Mexico. It is served by two full-time AM stations (KGAK and KYVA) and two FM stations (KQNM and KOVO). The AM and FM stations are co-owned.

3. The petitioner incorporated by reference the information in the Notice which demonstrated the need for an additional FM assignment to Gallup. He also noted Gallup's continuing growth pattern, which he says justifies a third assignment. In the Notice we stated that all seven channels would be affected as a result of the proposed assignment. However, numerous other channels are said to be available throughout the precluded area.

4. Road Runner Radio, in opposition to the proposal argues that the petitioner has failed to show good cause for a departure from the Commission's population guidelines governing FM allocations. It contends that Gallup has adequate service, provided by local stations and neighboring communities. One of the stations providing service to Gallup is said to be KYKN(FM), Grants, New Mexico, of which the petitioner (and his wife) is a 29% stockholder. RRR asserts that under the Commission's multiple ownership rules, petitioner would be prohibited from applying for the channel he seeks to have assigned. RRR claims that Gallup's population has

been static in recent years. Since most of the area is owned by either the Navajo Tribe or the Federal Government and is undeveloped, RRR alleges that growth in the area will continue to be restricted. Adding to those factors is the sluggish economy (primarily the uranium industry) and a major decline in tourist trade. The opposition also contends that market conditions in the Gallup-McKinley County area strongly dictate against another FM station in the area. It therefore urges the Commission to dismiss the proposal for a third FM allocation to Gallup.

5. In reply comments, the petitioner argues that Gallup should not be denied a third assignment based on declining tourism, adequate service, static population and a depressed economy. Petitioner alleges that the opponent is a licensee who does not wish to be subject to additional competition. It adds that the population has shown significant growth between 1970 and 1980 (approximately 29%) and continues to increase. While McKinley County is said to be suffering economically from employment cutbacks in the uranium industry, petitioner asserts that the uranium mines are located at Grants, New Mexico, some 60 miles away, with little impact on Gallup's economy. Gallup's main industry is really coal, which is experiencing significant growth as the uranium industry declines. Petitioner characterizes RRR's allegation regarding a decline in the tourist trade as erroneous. Finally, petitioner responded that the multiple ownership issue should not present an obstacle to the assignment since several options are present. Petitioner states that it may have an ownership interest in both stations or it may sell its interest in the Grants station. However, it does not foresee an overlap problem because the mountainous terrain between the two communities would prevent an actual 1 mV/m overlap.

6. The main issue here appears to be the need for an additional assignment at Gallup, in view of the Commission's general policy which calls for assigning two stations to communities with a population under 50,000. This criteria has been employed as a guideline, not a rigid formula, and has not limited itself solely to numerical distribution. Here, we note that Gallup's population has shown a substantial increase in the past

decade (+24%) and this gain allegedly will continue in the foreseeable future. The fact that Gallup has adequate local service and receives the signals of nearby cities should not necessarily foreclose an additional assignment to that community. Where, as here, the preclusion impact is considered to be insignificant due to the availability of channels in the area, the guidelines are applied with flexibility and assignments can be made in excess of the criteria. See, *Waycross, Georgia*, 47 R.R. 2d 319 (1980). We feel that the issues raised by the opposition have been satisfactorily answered by the petitioner. The issues regarding economic impact are of a competitive nature, and should be considered at the application stage. Thus, in view of the expressed interest in a third commercial FM assignment to this growing community and the fact that the preclusion impact is insignificant, we believe that the public interest would be served by granting the requested assignment. The potential multiple ownership problem is more appropriately dealt with at the application stage where an actual coverage area for the proposed station can be evaluated.

7. In view of the foregoing and pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, That effective July 19, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to Gallup, New Mexico, as follows:

| City | Channel No. |
|---------------------|--------------------|
| Gallup, N. Mex..... | 229, 233, and 256. |

8. It is further ordered, that this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau. (202) 632-7792. (Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-13977 Filed 5-20-82; 8:45 am]

BILLING CODE 6712-01-M

¹Road Runner Radio, Inc. is the licensee of Stations KYVA(AM) and KOVO(FM), Gallup, New Mexico.

²Population figures are taken from the 1980 U.S. Census, Advance Report.

Proposed Rules

Federal Register

Vol. 47, No. 99

Friday, May 21, 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 532.

Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: Proposed Rulemaking.

SUMMARY: The Office of Personnel Management is proposing regulations to implement the results of a study which it conducted of blue collar supervisory pay practices in private industry. The study results would be implemented by making certain changes in the grades of wage supervisors, and in the current pay formula which is used to compensate employees in these positions.

DATE: Comments must be received by July 20, 1982.

ADDRESS: Send or deliver written comments to Mr. Jerome D. Julius, Assistant Director for Pay Programs, Compensation Group, Room 3353, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Mr. David Weisberg, (202) 632-5454.

SUPPLEMENTARY INFORMATION: The current pay plan for supervisors of Federal trade, craft and labor occupations was established in December 1968, following a comprehensive study of supervisory practices in private industry. The formula which was adopted for setting Federal supervisors' pay closely followed the patterns of supervisory pay practices and pay differentials which were disclosed by the industry study.

The Federal wage system law (Pub. L. 92-392) requires that Government compensation practices be kept consistent with those which prevail in the private sector. A new supervisory study was therefore conducted in 1979 to determine whether the Government-wide system for supervisors was still reflective of industrial practices.

All industry data collected in the study were converted to equivalent

grades under the Federal supervisory structure. The pay differentials of the industry positions were then compared with the differentials the positions would receive if they were paid from the average wage schedule in the Federal Government. The average Federal schedule was constructed in a manner which assured that the present restrictions on Federal pay which have been adopted as a matter of public policy would be applied to blue collar supervisors in the same fashion as they are applied to all other Federal employees. Differences between the Federal and industry pay differentials were weighted by the number of industry samples obtained at each grade. The comparison of these Federal and industry differentials is as follows:

Comparison of Survey Results With Federal Supervisory Differentials

(In percent)

| | Survey results | Federal differentials | Adjustment indicated ¹ |
|--------------------|----------------|-----------------------|-----------------------------------|
| Grade: | | | |
| WS-1 ² | 53 | 39 | +14 |
| WS-2 ² | 37 | 44 | -7 |
| WS-3 ² | 21 | 36 | -15 |
| WS-4 ² | 34 | 40 | -6 |
| WS-5 ² | 37 | 37 | None |
| WS-6 ² | 28 | 36 | -8 |
| WS-7 ² | 39 | 38 | +1 |
| WS-8 ² | 30 | 31 | -1 |
| WS-9 ² | 32 | 33 | -1 |
| WS-10 ² | 33 | 31 | +2 |
| WS-11 ² | 47 | 40 | +7 |
| WS-12 ² | 51 | 42 | +9 |
| WS-13 ² | 39 | 37 | +2 |
| WS-14 ² | 58 | 50 | +8 |
| WS-15 ² | 74 | 51 | +23 |
| WS-16 ² | 70 | 59 | +11 |
| WS-17 ² | 79 | 63 | +16 |

¹ Adjustment to average Federal schedule to reflect survey results.

² Weighted average difference WS-1-WS-10: -.8%.

³ Weighted average difference WS-11-WS-17: +7.6%.

Differential results for positions in grades WS-1 through WS-10, and WS-11 through WS-17, respectively, were analyzed separately because both current Federal pay setting procedures and the survey results differ significantly for positions in grades WS-1 through WS-10, compared with those in grades WS-11 through WS-17. The preceding Table indicates that positions in the Federal Government in grades WS-1 through WS-10 through WS-10 receive pay differentials over their nonsupervisory subordinates which exceed private sector differentials by a little less than one percent. Positions in the Federal Government in grades WS-11 through WS-17, however, trail private industry differentials by approximately

7.6 percent. In the Federal Government most Foreman positions are in grades WS-1 through WS-10, and most General Foreman positions are in grades WS-11 through WS-17.

OPM Proposes to achieve overall comparability with private industry for the range of supervisory positions in grades WS-11 through WS-17 by raising all General Foreman positions one grade, and changing the linkage point for WS-19 in the current supervisory pay formula from GS-14/1 to GS-14/3. For economic reasons, this will be accomplished over a two-year period on a wage area-by-wage area basis. During the first year, the WS-19 linkage point will be changed from GS-14/1 to GS-14/2. In the second year of implementation, all General Foreman positions will receive a one grade increase concurrent with the completion of the WS-19 linkage adjustment from GS-14/2 to GS-14/3. The Staffing Services Group of OPM will raise the General Foreman grades by revising the wage supervisor job-grading standard; the linkage change will be accomplished by changing the reference to "minimum" rate in regulation 5 CFR 532.203(d)(2) to the "second" rate in the first year of implementation, and to the "third" rate to the second year of implementation. No changes are proposed for Foreman positions in grades WS-1 through WS-10 whose current pay differentials correspond closely to industry practice.

The General Foreman—GS-14/3 linkage adjustment which OPM is proposing will, when completed, eliminate the lag observed in the supervisory study for all positions in grades WS-11 through WS-17. The increases which would result from the OPM proposal are targeted primarily to the General Foreman positions in those grades. General Foremen in grades WS-11 through WS-17 currently receive pay differentials which are 15 percent less than private industry. The OPM proposal would reduce the pay differential lag for General Foreman positions in these grades to 2 percent.

OPM wishes comments on its proposal to change the current WS-19 linkage point in conjunction with increasing the grade of General Foreman positions. We will also consider any other suggestions for implementing the supervisory study results. These could take the form of a new or revised supervisory pay formula, or some

different approach which would serve to carry out the survey findings. If this proposed regulation is ultimately issued as a final regulation, it will be revised after one year to complete the WS-19 linkage adjustment from GS-14/2 to GS-14/3.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, 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 compete 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 businesses, small organizational units and small governmental jurisdictions.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wage.

U. S. Office of Personnel Management.

Donald J. Devine,
Director.

PART 532—PREVAILING RATE SYSTEM

Accordingly, the Office of Personnel Management proposes to revise 5 CFR 532.203(d)(2) to read as follows:

§ 532.203 Structure of regular wage schedules.

* * * * *

(d) * * *

(2) For grades WS-11 through WS-19, based on a parabolic curve linking the WS-10 rate to the WS-19 rate, which latter rate is equal to the second rate in effect for General Schedule grade GS-14 at the time of the area wage schedule adjustment.

(5 U.S.C. 5343, 5346)

[FR Doc. 82-13883 Filed 5-20-82; 9:45 am]

BILLING CODE 5325-01-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 306, 317, and 381

[Docket No. 81-038 P]

Prior Labeling Approval System

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to implement a nationwide program to delegate limited labeling approval authority to its inspectors-in-charge (IIC) of official establishments and to establish, by regulation, limited categories of generically approved labeling. The types of labels or other labeling to be approved by the IIC would include: (1) Modifications of previously approved labeling which fall into certain specified categories; (2) shipping containers bearing or referencing the product name; (3) labeling not previously approved for products containing a single ingredient and which do not contain information, statements, or claims, such as quality claims, negative claims, geographic claims, nutritional claims, guarantees, or foreign language; and (4) all final labeling having a sketch approval from the Standards and Labeling Division (SLD) in Washington when the final labeling is consistent with the approved sketch.

The types of generically approved labeling would include modifications of previously approved labeling which fall into certain specified categories. The use of the IIC to approve labels or other labeling and the use of generically approved labeling would be voluntary, and official establishments would retain the option of submitting applications for approval of these types of labels or other labeling to SLD. The effects of field delegation and generic approval would be decreased turnaround time for labeling approvals and more efficient utilization of Agency resources.

DATE: Comments must be received on or before: August 19, 1982.

ADDRESS: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Food Safety and Inspection Service, Room 2637, South Agriculture Building, U.S. Department of Agriculture, Washington, DC 20250. (For additional information on comments, see "Supplementary Information.")

FOR FURTHER INFORMATION CONTACT: Ms. Joan Moyer Schwing, Deputy Director, Standards and Labeling Division, Meat and Poultry Inspection

Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-4293.

SUPPLEMENTARY INFORMATION:

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5. Appeals
6. Temporary Approvals
7. Costs and Benefits of Proposed Changes

Executive Order 12291

The Agency has determined that the proposed rule is not a major rule under Executive Order 12291. The proposal would provide greater flexibility to meat and poultry processors in obtaining label approvals. It would not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The costs and benefits of the proposed changes are discussed at the end of the supplementary information.

Several options were considered by the Department before proceeding with this proposal.

Option 1 would make no changes to the current labeling approval program. This option was rejected because it is unresponsive to criticisms that the present program is burdensome, costly, and inefficient.

Option 2 would delegate to the IIC the authority to approve simple labeling and all final labeling if it is consistent with sketches previously approved by SLD. This option in conjunction with some aspects of Option 5 was chosen because it would provide a more rapid turnaround for labeling approvals and would make more efficient use of FSIS resources. A version of this option was

tested in a pilot program and proved successful.

Option 3 would delegate labeling approval authority to the area offices for all simple labeling and for final labeling having SLD sketch approval. This option was rejected because it would increase field office workload without providing a significant decrease in turnaround time for approvals.

Option 4 would delegate authority to both the IIC and the area offices. The IIC would have the authority to approve simple labeling and final labeling that are consistent with sketches that have been approved by SLD. The area offices could approve labeling of "medium" complexity, while "complex" labeling would go directly to SLD for approval. This option was rejected because of the difficulty in defining the differences between "simple", "medium", and "complex" labeling.

Option 5 would create, by regulation, broad categories of generically approved labeling. Labeling which fell within such defined categories would be deemed to be approved by the Administrator. This option was rejected in part because of the difficulty in fully defining broad categories of approved labeling and the unavoidable elements of judgment involved in determining whether a specific labeling would or would not fall within such a category. Generic approval is being proposed on a limited basis, however, in areas where these problems do not appear substantial.

The Agency has designated Prior Label Approval as an area of regulation to be reviewed as part of its Fiscal Year 1982 Regulatory Review activities in accordance with Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act. This proposal constitutes one aspect of this review. During the pendency of this proposal, the Agency also intends to continue to assess the possibility of other regulatory changes to its prior label approval program, in keeping with those authorities. This review effort may contribute to additional proposals during Fiscal Year 1982.

Effect on Small Entities

The Administrator, FSIS, has made a tentative determination that this proposal would not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (RFA), Pub. L. 96-354 (5 U.S.C. 601).

It is probable that on-site labeling approvals by the IIC and generic labeling available to inspected firms at their option will be viewed by the regulated industry to be a benefit. This

would permit each firm to obtain approvals for certain prescribed labeling changes at the plant or through prescribed regulations rather than having to submit applications to Washington, D.C. A recent pilot program permitting optional on-site label approvals indicates that many firms will find it advantageous to rely on the IIC in this fashion.

Under the proposal, establishments would have the flexibility to use all, some, or none of the labeling approval authority delegated to the IIC or to use generic approval of certain types of labeling. Use of the IIC for labeling approvals and generic labeling approval would be optional with the inspected establishment. Further, any application receiving a negative determination by an IIC could be resubmitted directly to SLD for a new review. Thus, each establishment would have the ability to use the proposed procedures only to the extent those procedures provide benefits to that plant. As a consequence, it is presumed that only benefits will accrue to the regulated industry by promulgation of the proposed regulation.

The Administrator has also tentatively concluded that there will not be "significant" effects requiring a Regulatory Flexibility Analysis under the RFA. The extent of the anticipated benefits is not clear due to the variables involved. Therefore, comments are solicited on whether the proposed regulation might result in some costs to small entities and, if so, the weight such costs should be given in determining the net benefits of the proposed regulation.

The Agency is aware of the possibility of some opposition to this proposal by several small service firms based in the Washington, D.C. area. These firms service the regulated industry by handcarrying their clients' label applications to SLD for approval. These labeling consultant firms may be concerned that their business will decrease to the extent regulated businesses avail themselves of on-site labeling reviews by the IIC. The kinds of labeling applications which the IIC would be authorized to approve or which would qualify for generic approval are the routine, noncontroversial kinds that are not frequently likely to require personal representation in Washington in order to obtain approval. Nonetheless, labeling consultants may experience a decline in business if most establishments avail themselves of the new procedures, as expected by the Agency.

Assuming there is a correlation between use by the industry of on-site labeling approval and generic labeling and a reduction in business for labeling

consultants, it is not clear how much weight should be given to the latter. Although such a decline in business might be termed a "cost" of these proposed regulations, such use of the term "cost" results in an anomaly: A cost to regulated industry caused by regulations, that is, the perceived need for use of consultants to get labels approved, is treated as a countervailing benefit to those third parties, arguing against such a reduction in the costs to the regulated industry.

The Administrator has tentatively concluded that the benefits to the regulated industry of having available on-site labeling approvals by IIC's and of having generic labeling outweigh the costs, if any, to firms which service the industry by expediting label approvals in Washington, D.C. The Agency solicits information and comments on the impact of the proposed regulations on the labeling consultant firms and on the weight such impact should be given in ascertaining the costs and benefits of the proposed regulation.

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be submitted in duplicate to the Regulations Office. Comments should reference the docket number located in the heading of this document. Any person desiring opportunity for oral presentation of views must make such request to Ms. Schwing so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this proposal will be available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m. Monday through Friday.

Background

1. *Introduction.* The Food Safety and Inspection Service is proposing to amend the Federal meat and poultry products inspection regulations (9 CFR Parts 317 and 381) concerning the manner in which it provides prior approval of product labels and other labeling. This document outlines the current review process, the problems associated with it, the various initiatives undertaken by the Agency to determine the best possible alternative to the present system, and the concerns expressed by the regulated industry. It explains the changes being proposed, most significantly the delegation of authority to inspectors in official establishments to grant Agency approvals for certain labels and other

labeling. By delegating limited labeling approval authority to inspectors-in-charge and by creating a limited category of generic labeling approval, the Agency believes that meat and poultry processors would be provided greater flexibility, faster label review and processing, and consequently, a saving of time and money. Also, the Agency believes that the proposed changes would result in increased efficiency and better utilization of Agency resources.

2. *Statutory responsibilities.* The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) direct the Secretary of Agriculture to maintain meat and poultry inspection programs designed to assure consumers that meat and poultry products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged.

As Congress has specified in section 2 of the FMIA (21 U.S.C. 602) and Section 2 of the PPIA (21 U.S.C. 451), unwholesome, adulterated, or misbranded meat or meat food products or poultry products are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly marked, labeled, and packaged products, and result in sundry losses to producers and processors of meat and poultry products, as well as injury to consumers. Therefore, Congress has granted the Secretary broad authority to protect consumers' health and welfare. Specifically, section 7(d) of the FMIA (21 U.S.C. 607(d)) and section 8(c) of the PPIA (21 U.S.C. 457(c)) read as follows:

No article subject to this title shall be sold or offered for sale by any person [firm, or corporation,] in commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the Secretary are permitted.

*Bracketed portion is not in Section 8(c) of the PPIA.

Under this provision, the Secretary of Agriculture or his representative has the responsibility to approve all labels or other labeling which are to be used on federally inspected meat and poultry products prior to the marketing of the products. Without such approved labeling, products may not be sold or offered for sale in commerce. The term labeling, as defined in the Acts, refers to all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article (section 1(p)

of FMIA, 21 U.S.C. 601(p), and Section 4(s) of PPIA, 21 U.S.C. 453(s)).

Consistent with this provision, the meat and poultry products inspection regulations provide that, with few exceptions, no labeling shall be used on any product bearing any official inspection mark until it has been approved in its final form by the Administrator (9 CFR 317.4 and 9 CFR 381.132). Foods containing more than 3 percent fresh meat or at least 2 percent cooked poultry meat are generally deemed amenable to USDA inspection requirements.

Section 1(m)(8) of the FMIA (21 U.S.C. 601(m)(8)) and section 4(g)(8) of the PPIA (21 U.S.C. 453(G)(8)) provide that any carcass, part thereof, meat or meat food product or any poultry product is adulterated " * * * if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefore; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is * * *." Furthermore, any carcass, part thereof, meat or meat food product or poultry product is considered misbranded if its labeling is false or misleading in any particular (section 1(m)(1) of FMIA, 21 U.S.C. 601(m)(1), and section 4(h)(1) of PPIA, 21 U.S.C. 453(h)(1)).

In order to prevent adulteration and/or misbranding as defined in the Acts, the FMIA and the PPIA further authorize the Secretary to prescribe, whenever he determines such action is necessary for the protection of the public, (1) the styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling, and (2) definitions and standards of identity or composition for some meat and poultry products (section 7(c) of the FMIA, 21 U.S.C. 607(c), and section 8(b) of the PPIA, 21 U.S.C. 457(b)).

3. *Regulatory requirements.* The labeling provisions of the meat and poultry products inspection regulations, issued pursuant to the FMIA and the PPIA, specify the required features of meat and poultry product labels (9 CFR Part 317 and 9 CFR Part 381, Subpart N). These include: (1) The standardized, common or usual, or descriptive name of the product; (2) an ingredients statement containing the common or usual name of each ingredient listed in descending order of predominance; (3) the name and place of business of the manufacturer, packer, or distributor; (4) an accurate

statement of the net quantity of contents; (5) the USDA inspection legend; and (6) special handling instructions if product is perishable (i.e., "Keep Frozen," "Keep Refrigerated," etc.). These essential labeling features must be prominently and informatively displayed on the label (9 CFR 317.2 and 9 CFR 381.116).

The regulations contain other provisions to ensure that no statement, word, picture, design, or device which is false or misleading in any particular or conveys any false impression or gives any false indication of origin, identity, or quality, shall appear in any marking or other labeling (9 CFR 317.8 and 381.129). For example, terms having geographic significance with reference to a locality other than that in which the product is prepared may appear on the label only when qualified by the word "style," "type," or "brand," as the case may be, and accompanied with a prominent qualifying statement identifying the country, State, territory, or locality in which the product is prepared (9 CFR 317.8(b)(1)). Further, coverings for meat or meat food products shall not be of such color, design, or kind as to be misleading with respect to color, quality, or kind of product (9 CFR 317.8(b)(5)).

Any marking or labeling which is determined to be false or misleading within the meaning of the Acts and the implementing regulations causes the article to which it relates to be misbranded and, pursuant to the authority contained in section 7(e) of the FMIA (21 U.S.C. 607(e)) and section 8(d) of the PPIA (21 U.S.C. 457(d)), and §§ 335.12 and 381.233 of the meat and poultry products inspection regulations (9 CFR 335.12 and 381.233), the Administrator, FSIS, may withhold use of such marking or labeling.

In addition to providing substantive labeling requirements and prohibitions, the meat and poultry products inspection regulations provide specific information regarding permitted and nonpermitted uses of various substances (9 CFR 318.7 and 381.147). These provisions prohibit the use in official establishments of any food additive, color additive, pesticide chemical, or other added poisonous or deleterious substance, or any other substance in or on meat or poultry products that would cause such articles to be adulterated or misbranded within the meaning of the Act. These provisions are designed to ensure that ingredients aimed at improving physical qualities of a product, such as flavor, color, and shelf-life, meet a specific justifiable need in the product and do not promote

deception as to product freshness, quality, weight, or size.

The regulations further prescribe definitions and standards of identity or composition for certain meat and poultry products (9 CFR Part 319 and 9 CFR Part 381, Subpart P). Standards of composition identify the minimum amount of meat and/or poultry required in a product's recipe. For example, the standard of composition for "Chicken a la King" requires that, if a product bears this name on its label, at least 20 percent cooked poultry meat must be used in the recipe (9 CFR 381.167).

Standards of identity set specific product requirements for a food's makeup. These standards often specify (1) the kind and minimum amount of meat and/or poultry; (2) the maximum amount of nonmeat ingredients, such as fat or moisture; and (3) any other ingredients allowed or expected in the final product.

Meat and poultry product standards provide a simple and direct means by which consumers can learn what to expect from a product if it is labeled with a particular name. Thus, these requirements help to ensure that consumers' expectations are met.

4. *The current label review process.* In order to assure that meat and poultry products are in compliance with the Acts and the regulations promulgated thereunder, FSIS presently conducts a prior approval program for labels and other labeling as specified in 9 CFR 317.4, 317.5, 381.132, and 381.134 to be used on federally inspected meat and poultry products. This program is administered in Washington, D.C.

To apply for labeling approval, meat and poultry packers or processors, or their representatives, submit label sketches, final labels, or other labeling to SLD, along with the Agency's application form. Through this procedure, applicants submit detailed processing and handling information, including the following:

- (1) Product name (i.e., the standardized, common or usual, or descriptive name of the product).
- (2) Formulation information (i.e., list of ingredients in descending order of predominance) and method of preparation.
- (3) Firm name and address.
- (4) How the label is to be used (i.e., consumer size, institutional capacity, or shipping container).
- (5) Size and type of container (i.e., wrapper, casing, carton, etc.).
- (6) Size of the principal display panel.

This information is reviewed by an FSIS label reviewer who is responsible for assuring that all labeling on meat and poultry products accurately and

appropriately reflects the products' contents. Currently, the IIC also has the authority to approve some labeling modifications as specified in the meat and poultry products inspection regulations (9 CFR 317.4(c), 317.4(d), 317.5, 381.134, and 381.135). This authority, however, is rarely exercised.

Many applicants consult with SLD during development of new labeling to ensure their labeling will be in compliance with the Acts and the regulations. In fact, nearly 30 percent of the labeling currently submitted to SLD for prior approval are sketches or proofs of proposed labeling materials. Through this process, applicants may have their labeling materials reviewed and modified, if necessary, before they prepare final labeling materials. This service appears to be particularly valuable to small firms which may lack the resources to keep fully informed regarding current labeling policy and regulations.

The maintenance and operation of the current prior approval system is a difficult task. Technological innovations in food processing and increased public awareness and concern about the presence of various substances in foods often lead to complex issues which SLD must resolve as part of the prior labeling approval process. Moreover, the expanded use of the label and other labeling as a marketing tool designed to encourage a product's sale has generated difficult questions for SLD in evaluating, on an individual basis, what types of labeling will not be false or misleading, or otherwise render the product misbranded. Although a substantial percentage of the labeling applications submitted to SLD can be routinely approved or denied by applying the relevant portions of the Acts and the regulations, some of the more difficult questions require interpretation of the Acts or regulations and the development or modification of the Agency's policy.

In an effort to increase the uniformity of decisionmaking in this area, label review determinations are recorded for nearly 1,000 products, for which there are common or usual names, and published in an internal manual known as the "Policy Book." These provisions often specify minimum meat and/or poultry content requirements for various meat and poultry products. For example, "Ham Salad" must contain at least 35 percent ham (cooked basis) and "Chicken and Noodle Au Gratin" must contain at least 18 percent chicken meat (cooked, deboned basis). The provisions found in the "Policy Book" have developed over time, usually in response to industry members or consumers

showing particular interest in increasing uniformity among products using the same product name, and are based on recipe information gathered from cookbooks, old formulas, and other reliable cooking sources. The "Policy Book" is widely recognized by the meat and poultry industry and is available to the public upon request.

In recent years when particularly novel, complex, or significant questions arise, the label reviewers also have relied on SLD policy memoranda as the basis for their labeling determinations. These memoranda are issued periodically in a uniform format which specifies the issue, SLD's application or determination, and the basis for the decision. Any policy specified in a memorandum is uniformly applied to all relevant labeling applications unless modified by future memorandum or more formal Agency action, and all memoranda are also available to the public upon request.

FSIS currently receives approximately 2500 labeling applications for review each week. Labels and other labeling are forwarded by applicants in one of two ways. Some applications are sent through the mail, while others are hand-delivered to SLD in Washington, D.C., by the applicants or their representatives. At the present time, approximately 60 percent of the labeling applications are presented in person; the remaining 40 percent are sent through the mail. Under the current procedure, mailed-in applications are sorted and delivered to the label reviewers on the day they are received. These labels or other labeling are returned through the mail after they are reviewed.

Daily assignments to the label reviewers are made so that they handle both the mailed-in and the hand-carried submittals. However, when label reviewers are absent, the remaining reviewers' workload is increased in order to accommodate the visiting applicants. When such increases occur, work on the mailed-in applications is often delayed. Backlogs of mailed-in labeling applications occasionally occur, and delays of 2 or 3 days are not uncommon. In some instances, there are surges of mail and this, coupled with staffing limitations, can cause delays in reviewing applications of up to 10 days from the date of receipt. Delays in mailing out approved labels also occur, and this can add up to an additional 3 days to the process. The entire process of mailing-in, reviewing, and returning the labeling to processors can, in some instances, take up to 3 weeks.

Hand-carried labeling applications are usually reviewed on the day of delivery.

Appointments are scheduled daily with the applicants, or their representatives, and these individuals go through the review process with the label reviewer. The results of the review are known immediately and this information is often phoned back to the applicant on the same day.

5. *Criticisms of the current program.* Several criticisms of the label approval program have been made in recent years. The Senate Committee on Governmental Affairs reviewed the prior approval program in 1977 and found it "costly, inefficient, and ripe for change." Similarly, the General Accounting Office (GAO), in its March 1980 study on Federal paperwork burdens, titled "Department of Agriculture: Actions Needed to Enhance Paperwork Management and Reduce Burden" criticized the program, maintaining that it imposes unnecessary cost and red tape upon the regulated industry. GAO also recommended that FSIS review applications on a first-come, first-served basis.

In December 1979, a report was prepared by the USDA Office of the Inspector General (OIG) titled "Food Safety and Quality Service Compliance Program Standards and Labeling Division" in which the OIG indicated that there were serious problems in the program which the OIG concluded required corrective action to bring consistency, uniformity, and integrity to the label review process.

In recent months, a number of groups including the National Food Processors Association, in testimony before the Senate Committee on Agriculture, Nutrition, and Forestry, have recommended that the current program be dismantled. The major criticism is that USDA is imposing a procedure on industry that is too burdensome, costly, and time-consuming for the consumer protection that it affords. Specifically, processors complain that the present system causes inordinate delays in product introduction schedules and problems for those seeking to accommodate customer needs.

A recent request for other changes in the prior label approval program has been advanced in the form of a petition from the American Meat Institute (AMI), a national trade association of meat packing and processing companies, on behalf of its members. This petition, received in August 1981, argues that the time delays, costs, rigid procedures, and uncertain outcome of the current system serve to stifle the marketing process and, consequently, the growth of the meat industry. Therefore, AMI has requested that the current prior label approval process be modified by

limiting the types of labels which must be submitted to the Agency for prior approval. Furthermore, AMI has suggested that prior "generic" or "blanket" approval, subject to SLD audit and enforcement, could be given by the Agency to several categories of labels. In addition, AMI has suggested that an expedited appeals system be established to facilitate review of denied applications or restrictive approvals.

Specifically, AMI has suggested that the submission of labels to SLD for prior approval should only be required for final labels of "new" products. A "new" product, as defined in this petition, is a product for which a label has not previously been approved for that processor. Exempt from this definition of a "new" product are the following formula changes (addition, deletion, increase, or decrease of an ingredient) for a previously approved label:

- (1) For product subject to a specific Definition and Standard of Identity or Composition, a formula change which does not take the product out of the specific standard would not be considered a "new" product.
- (2) For non-standardized product, i.e., product not subject to a specific Definition and Standard of Identity or Composition, a formula change involving an ingredient present at less than 5 percent of the product or not requiring a change in the order of predominance of the ingredients would not be considered a "new" product.

In addition to the above mentioned formula changes, the following categories of product labeling would also be exempt from prior approval:

- (1) A product with a formula identical to a product for which a label has been previously approved, but with a different net weight or size.
- (2) A product with a formula identical to a product for which a label has been previously approved, but for a different establishment of the same or affiliated company.
- (3) Labels placed on product shipped between establishments of the same company.
- (4) Products shipped to food service establishments, provided the labels do not contain quality claims nutritional claims, or geographical claims.
- (5) Single ingredient products, provided the labels do not contain quality claims, nutritional claims, or geographical claims.
- (6) Inserts, tags, liners, pasters, and like devices containing printed or graphic matter.
- (7) Stencils, labels, box dies, and brands used on shipping containers.

AMI has further suggested:

Labels for products outside the definition of 'new' would be presumed in compliance with statutory and regulatory requirements. * * * These labels would not have to be submitted for (prior) approval; however, the establishment would be required to provide the label to the IIC and send it to (SLD) prior to the time the label was applied to the product * * * All alleged misbranding violations would be reported by the IIC to (SLD).

AMI has also proposed that an approved "sketch" may serve as a final label approval, provided that sketch is approved without modification or with only minor modifications. Minor modification, as defined in the AMI petition, include the following:

- (1) Any change in the color/contrast of label material, provided all mandatory material is sufficiently prominent as required by the regulations.
- (2) The addition, deletion, or amendment of a coupon.
- (3) The addition, deletion, or amendment of a "cents-off" statement.
- (4) The deletion of a "new" flag.
- (5) The addition, deletion, or amendment of a recipe on the package.
- (6) A change in the type size, type style, or wording for material not required under the Acts or regulations.
- (7) The addition of a new establishment number or a change in the establishment number, provided the change is consistent with § 317.2(i) of the regulations.
- (8) A change in the name or place of business of the manufacturer, packer, or distributor, provided the change is consistent with § 317.2(g) of the regulations.
- (9) A change in the net contents or size of the product, provided all other material required by the regulations remains the same, and the change is consistent with § 317.2(h) of the regulations.
- (10) A change in the vignette or label design which does not affect label material required by the regulations.
- (11) The addition, deletion, or amendment of cooking instructions.
- (12) The addition, deletion, or amendment of information not required by the regulations other than quality claims, geographical claims, or nutritional claims.
- (13) The addition, deletion, or amendment of packer code, open-dating, or UPC product code information.
- (14) The addition, deletion, or amendment of handling instructions, provided the change is consistent with § 317.2(k) of the regulations.
- (15) A change in punctuation.

(16) Minor variations in the configuration of inspection legends (graphics and wording), provided they are legible, readable, and contain all information required by the regulations.

Labeling presumed to be in compliance with general requirements and on file with SLD would be subject to an audit, according to the petition. AMI states "where there is reason to believe a label is found to be false or misleading, (SLD) may take the following action:

(1) Notify the establishment of label modifications to be made at the next printing in situations not involving product safety or significant economic fraud; or

(2) Seek administrative detention under Part 329 of this chapter in situations involving product safety or significant economic fraud."

AMI has further suggested that the establishment have the right to an expeditious appeal to the FSIS Administrator after receiving notice of a denial of a labeling application or upon notice of an audit defect. SLD would have the burden of proof to demonstrate that the labeling is false or misleading, and would have 5 days within which to file its response. The Administrator, separate and apart from the label review staff, would then have 5 days from the date the SLD response is filed to render a written decision. This appeal would precede the applicant's right to request a hearing before an Administrative Law Judge.

AMI contends that these recommended changes would eliminate many of the burdensome and duplicative aspects of the current prior label approval program, while maintaining SLD's ability to monitor compliance with product standards. Furthermore, AMI argues that these changes would assure that only approved ingredients and additives are used, and would ensure compliance with the labeling requirements imposed by the Acts and the applicable regulations.

Another request for changes in the current prior label approval program came from the National Association of Margarine Manufacturers (NAMM). On August 19, 1981, NAMM, on behalf of its members, petitioned the Administrator, FSIS, to, among other things, exempt animal fat margarine labels from the mandatory prior label approval program. NAMM argues that the regulation of animal fat margarine by FSIS is far more extensive, burdensome, and costly than that of its vegetable counterpart regulated by the Food and Drug Administration. NAMM contends that adoption of this petition would, therefore, bring consistency to the

regulation of all margarine products, i.e., vegetable oils and animal fat margarines. Furthermore, NAMM believes that such action would result in a saving of time and expense to the government, the animal fat industry, consumers, and taxpayers, without compromising the quality or wholesomeness of animal fat margarines.

On September 18, 1981, the National Food Processors Association (NFPA), on behalf of its meat and poultry processing members, also petitioned the FSIS Administrator. NFPA has requested prompt revision of the meat and poultry inspection regulations to include any informal labeling policies currently enforced by the Agency. Consistent with this request, NFPA has urged that all future labeling decisions be based solely on published regulations. NFPA has further asked the Agency to publish its intentions in the *Federal Register*, and to issue as food standards of identity any informal product name restrictions that the Agency intends to rely upon. NFPA contends that adoption of its petition would reduce the time required to obtain USDA approval of new product names and would eliminate unfair and inconsistent USDA regulation of product names. NFPA further suggests that adoption of its proposed changes would stimulate competition and innovation by providing meat and poultry processors greater freedom to choose distinctive and nonmisleading product names.

The latest request for modifications of the prior label approval program has been made by James V. Hurson Associates, Inc., a private firm of labeling consultants. A petition was submitted on behalf of the company's employees and clients requesting that all labels be processed and returned within 24 hours of receipt by USDA. To accomplish a 24-hour turnaround time, this Petitioner has specifically requested an increase in the present label review staff, elimination of the two groups of label reviewers (one reviewer group processes all sausage labeling and a second reviewer group processes all other labeling), and a more efficient distribution system. The Petitioner contends that these changes would eliminate the delays in the current prior label approval program.

The proposed rule contained in this document reflects the Agency's analysis of all the issues raised by these critics and also constitutes the Agency's specific response to the AMI and Hurson petitions and those aspects of the NAMM and NFPA petitions which discuss label review procedures. The AMI petition received particularly careful consideration since it included a

fairly detailed analysis of the process and included a number of specific suggestions. These are discussed in greater detail below. The overall thrust of the discussion of labeling issues contained in the NAMM petition is similar. (The Agency's responses to other issues raised by the petitioner were specified in a letter of November 20, 1981.) However, the NAMM petition adopts the view that an entire class of product labels, i.e., margarine containing animal fat above the 3 percent level, be exempted from certain procedural requirements. The proposal which follows would classify labels not within product categories but by their complexity. To the extent that margarine labels fit within this broader scheme of regulatory relief, they would be affected. However, the Agency does not feel that it has the basis to single out one class of product for special treatment under its regulations. Therefore, this aspect of the NAMM petition is not included in the proposal.

6. *The February 1980 proposal.* The Agency had been reviewing several of the issues discussed in the various petitions and raised by other critics of the current program prior to the submission of the petitions themselves. In fact, cost effectiveness and equitable processing of labeling applications have specifically been addressed in a proposal published in the *Federal Register* on February 26, 1980 (45 FR 12442). This proposal provides for the review and processing of label sketches, final labels, and other labeling to be used on meat and poultry products in the order received, regardless of the manner of delivery. Presently, hand-delivered label approval requests are given priority over those applications mailed to Washington for approval. Thus, this proposal attempted to establish a more equitable system for processing label applications.

The proposal received 165 comments, most of which were negative. A large number of these negative comments, however, were not responsive to the procedures actually proposed. However, several important points were emphasized and the Agency has attempted to address them in the current proposal.

Fifty-three of the comments addressed the issue of efficiency or cost effectiveness. In support of their position, most of these commenters mentioned a fear of long delays as their main reason for opposing the proposal, and cited delays they had previously encountered with mail-in labeling applications.

Equitable processing of labeling applications was another important issue underlying many of the comments. Several commenters pointed out that explicit guidelines had not been established for implementation of the proposed procedure for expedited processing and, therefore, thought that inequitable treatment would result.

Many commenters also indicated that expedited approvals were essential to securing private contracts or filling special production requests. Several commenters recommended increasing the number of label reviewers on the SLD staff as a means of expediting labeling approvals.

FSIS recognizes that there are occasions when expedited approvals are necessary to avoid economic loss to applicants. The Agency also recognizes the importance of timely and equal processing of all labeling requests. However, the Agency is not convinced that an increase in the number of label reviewers can be justified from the standpoint of either efficiency or cost effectiveness. More importantly, after carefully considering the issues and concerns presented above, it appears that the label approval process, as a whole, requires changes that are more fundamental in nature than are called for in the February 1980 proposal. The Agency is proposing to make some basic changes in the prior label approval process in an effort to increase the efficiency and effectiveness of FSIS personnel and to decrease the turnaround time for label review and processing. For this reason, it intends to defer further action on the former proposal. At the completion of the present proceeding, the narrower issue of hand-carried as opposed to mailed-in labels will be reexamined.

7. *The Agency's pilot program.* Along with a number of other initiatives to streamline the label approval process, the Agency decided in 1980 to explore the feasibility of delegating certain labeling approval authority to field personnel.

An Agency Task Force was organized to examine the feasibility of such delegation. The Task Force was assigned to review the overall concept of delegating authority; identify the various options available; explore the ramifications of such delegation; and estimate its potential effect upon the truthfulness and accuracy of labeling.

The Task Force members concluded that there appeared to be a number of labeling approval actions that could be taken by the field personnel without adversely affecting the accuracy of labels or other labeling. A more detailed discussion of these actions is contained

in the Task Force's report titled, "Delegation of Label Approval Authority to the Field", which is available for review by the public in the Regulations Office, Food Safety and Inspection Service, Room 2637, South Agriculture Building, Department of Agriculture, Washington, DC 20250. The Task Force considered the following three options:

- (1) Inspector-in-Charge proposal.
- (2) Area office proposal.
- (3) Combination inspector-in-charge/area office proposal.

The first two options involved delegating authority to MPI field levels to approve "simple" labels (both sketches and finals), which are defined below, and all final labels and other labeling that are consistent with sketches previously approved by SLD. In the first option (the option which was later tested in the pilot program), the inspector-in-charge would approve the labeling while in the second option, specialists in the area office would approve the labeling specified. The third option discussed built upon the inspector-in-charge proposal by adding authority for the area office to approve an additional category of labeling which involved more complex issues. After discussing and evaluating the pros and cons of each option, the Task Force recommended that a pilot program be initiated to test the feasibility and effectiveness of the first and third options prior to any regulatory change.

The Agency considered the Task Force recommendations and decided to test the first option, the inspector-in-charge option, through a 120-day pilot program. The Agency announced this pilot program in the *Federal Register* of October 31, 1980 (45 FR 72197). The pilot program was conducted in three areas: Missouri, Kentucky and the Hyattsville, Maryland area, which includes Washington, D.C., Maryland and Delaware. After several months of operating the pilot program, which began December 1, 1980, it was apparent that a longer test period was needed to obtain additional information and experience. Therefore, the program scheduled to end March 31, 1981, was extended until July 29, 1981, by notice in the *Federal Register* of March 27, 1981 (46 FR 18990).

The objective of the pilot program was to test the feasibility of delegating authority to the IIC to make certain labeling approval decisions without adversely affecting the accuracy of the labeling. The IIC is the meat and poultry inspection program employee in charge at an official establishment. The IICs in the designated areas could approve all simple labeling (sketches and finals) and

all final labeling which had a sketch previously approved by SLD. Simple labels or other labeling were defined for the purposes of the pilot program to include the following:

1. Previously approved labels or labeling where the modifications fall into one of the following categories:

(a) Those labels and other labeling identified in 9 CFR 317.4(c), 317.4(d), 317.5, 381.134, and 381.135,¹

(b) Meat and poultry inspection legends, or

(c) Meat carcass and meat food product brands.

2. Labels or other labeling not previously approved for products containing a single ingredients and which do not contain information, statements, or claims, such as:

(a) Qualifying statements,

(b) Quality claims, including, but not limited to such things as: Blue Ribbon, Choice, Prime, etc.,

(c) Negative claims,

(d) Geographical claims,

(e) Nutritional claims,

(f) Guarantees, or

(g) Foreign language.

The IIC was also authorized to approve all final labels or other labeling having a sketch approval by SLD when the final labeling exactly matched the approved sketch. The management of any federally inspected establishment located within these geographic boundaries had the option of submitting proposed labels or other labeling covered by the program to the IIC serving the establishment or continuing to send its labels or other labeling to SLD. Participation in the program was voluntary.

To help the IICs in reviewing labeling, they were given a self instructional guide. In addition, circuit and area supervisors were given an orientation briefing. Decision were to be based upon the appropriate regulations, instructions in the guide, and their knowledge of the products concerned. Labels or other labeling that were beyond their

¹The authority provided in the current meat inspection regulations includes the approval of inserts, tabs, liners, pasters, stencils, labels, box dies, and brands. This also includes the following modifications to previously approved labeling: Enlargements, abbreviations, name and address changes, holiday wrappers, directions, and ingredient quantity changes.

The authority provided in the current poultry products inspection regulations includes the approval of labels for Federal contract products, shipping containers, product not intended for human consumption, and product for export for processing. This also includes the following modifications to previously approved labeling: Enlargements, abbreviations, name and address changes, holiday wrappers, directions, name or class of poultry, and ingredient quantity changes.

authority to approve or that were questionable in any respect were to be forwarded to Washington without action. A copy of each label and other labeling acted upon and any supporting information were to be forwarded to Washington for review and audit.

Before the pilot program began, nine data elements were identified by the Task Force to be used in evaluating the program. These data elements were as follows:

1. Total number of labels and other labeling acted upon by the IICs, separated into two categories—simple labeling and final labeling with previously approved sketches; number and percentage of labeling decisions upheld and number overruled.
2. Ratio of IIC-submitted labeling to all labeling submitted by each participating plant.
3. Errors—separated into simple labeling and final labeling with previously approved sketches.
4. Turnaround time required.
5. Workload impact upon IICs.
6. Participation of plants in the program.
7. Comments received from IICs, plant management, trade organizations and others.
8. Ratio of labels processed by IICs to those processed from the three areas by SLD.
9. Number and kinds of appeals made on labeling decisions.

The Task Force conducted a detailed analysis of each of these data elements. This analysis was presented in the Task Force's Final Report, which is available for review by the public in the Regulations Office. A summary of this analysis evaluating the results of the pilot program and a review of the comments received in response to the October 31, 1980, *Federal Register* and to participation in the pilot program are discussed below.

8. Comments on the pilot program. In general there were two groups of comments received at two different times. The first and largest group were those received in response to the October 31, 1980, *Federal Register* notice. The second group consisted of comments from individuals or organizations involved in or having direct knowledge of the pilot program, which were received after the first 120-day test period in response to a letter from the Administrator that was sent to all firms located in the three pilot program areas. The two groups of comments are discussed separately below.

a. Federal Register notice comments. There were 36 comments received on the October 31, 1980, *Federal Register*

notice. Many of these dealt with issues raised by the February 1980 proposal. These issues were discussed in an earlier section of this document and, therefore, only those comments and issues dealing directly with the field delegation program will be discussed below. Several commenters requested that the original comment period be extended. The comment period was extended until February 23, 1981, in the *Federal Register* of January 23, 1981 (46 FR 7387).

Several commenters suggested that the area of decision for the IIC should be broadened to include such situations as: Removal of non-essential ingredients from the label; change in order of ingredient predominance; pressure sensitive labels that contain reference to product; multi-plant label sketch approval; and minor changes in approved complex labels.

The pilot program has demonstrated the competence of the IIC to make a variety of labeling approval decisions. The Task Force considered this suggested widening of authority and recommended that the proposed delegation of authority be considerably broadened to include many of these situations.

Since IIC-approved labels are subject to review and cancellation by SLD, one commenter stated that, "Packers, relying on these approvals will invest thousands of dollars in printing plates, advertising, labels, etc., only to be tarred and sandbagged by rotating inspectors, circuit, area and regional bosses plus the Washington label reviewers. Packers will never know if they have a true approval."

The Task Force recognized that this potential for uncertainty may exist; however, the pilot program demonstrated that the error rate of IIC approvals is low. Even if an error was made, immediate cancellation of labeling approval is generally restricted to those labels and other labeling having errors that could affect public health or to those that are determined to be misleading. The Task Force recommended that the authority to cancel approved labeling be reserved for SLD. Less serious errors that have been overlooked in the review process could be corrected by placing the label in a temporary status for a given time period to allow for the use of current stock. The Task Force also recommended that the authority for temporary approvals be reserved for SLD. The issue of temporary approvals is discussed in greater detail in a subsequent section of this document.

Another issue raised by the commenters was that uniformity in

labeling decisions would be affected because some IICs are not as experienced as others, nor are all judgments the same.

The pilot program demonstrated that, if the types of labeling that could be delegated were chosen selectively, uniformity could be maintained. Clearly defined rules and procedures and an adequate training program would assist IICs in their day-to-day duties and, finally, audit by SLD is designed to reveal inconsistencies. The Task Force recommended that a direct line of communication with the SLD staff be maintained.

One commenter stated that there have been no definitions published as to what constitutes a simple, medium, or complex label. These broad categories were tentatively considered by the Task Force, but the pilot program only addressed "simple" labeling (except for final labeling with previously approved sketches). The definition of "simple" labeling is discussed in greater detail later in this document. The instructional guide and the October 31, 1980, notice defined the labeling that the IIC could act upon in the pilot program. No attempt was made, or is currently being contemplated, to define "medium" and "complex" labeling since these categories were not adopted.

One commenter suggested that some IICs would decline to review labeling submitted to them. The Task Force believed that this comment was probably based on the current wording in the regulations where there has been some concern as to what the IIC is authorized to approve and recommended that this wording be changed to define clearly the authority and responsibility of the IIC. The Task Force pointed out that adequate training would also help eliminate this problem.

One commenter stated that multi-plant corporations do not want to submit their labels to IICs at each of their plants. Although the Task Force did recommend that each IIC only be allowed to approve labeling for use in his or her particular plant, a multi-plant corporation which wanted one approval for use in several plants could submit its labeling to SLD for approval for use in those plants. Copies of the SLD-approved labeling would then be sent to each IIC at each plant involved. An official copy of SLD-approved labeling would provide a sufficient basis for an IIC in any plant to approve that labeling, within the framework of the regulation proposed below.

Another commenter asked how an appeal would be processed—Meat and Poultry Inspection or the Standards and

Labeling Division? The Task Force recommended that labeling decisions be appealed directly to SLD. Questions regarding appeals are discussed in greater detail below.

Several commenters stated the continuing need for a central labeling and numbering system and the Task Force recommended that labeling approved locally by the IIC be incorporated into the SLD central labeling file. A numbering system was developed that would permit identification of each label by a specific number.

Another commenter was concerned about how labels would be processed during the absence of the IIC. The Task Force recommended that provisions for processing labeling applications during the absence of the IIC should be coordinated between management and the IIC or his acting replacement. There is an IIC assigned to every official establishment. Except where one inspector serves two or more smaller plants on a patrol basis, there should be an IIC at the plant, most of the time. Plants that share an individual IIC and are served on a patrol basis must communicate plant needs to the IIC, who will attempt to accommodate individual plant needs to the extent possible. In any event, labels may always be sent to SLD for approval.

One commenter stated that the delegation of authority is in violation of 9 CFR 317.4(a). The Task Force recommended that the regulation be changed in order to permanently delegate this authority.

One commenter stated that the IIC may have problems with approving final labeling from Washington-approved sketches. The Task Force did not establish firm guidelines for sketch submissions to describe exactly how detailed they should be since sketch submissions are voluntary. The Task Force believed, however, that guidelines should be needed and that applicants should submit printers' proofs for sketch approvals which would clearly show all labeling material, size, location, and some indication of final color to avoid such problems. If the sketch was not clear or was too "vague" and the IIC had trouble comparing the new final labeling to the SLD approved sketch, the Task Force recommended that the IIC be instructed to forward the labeling application to SLD without action.

b. Pilot program comments. There were five letters from plant management. All had used the program and all were pleased with the results. Savings of time and money were cited as advantages of the program, as evidenced by the following:

1. "The procedure * * * gave us an economic advantage in that new materials could be utilized much faster * * * With the rate of inflation being what it is, and the industry as a whole being financially tight, I'm sure you can appreciate our position when savings can amount to even a few hundred dollars."

2. "It has definitely reduced management time devoted to label approval."

3. "We found * * * that our inspector-in-charge could approve the labels * * * within a matter of minutes, thus saving us the time we needed to make a firm sales commitment."

Comments from the National Meat Association (NMA), a trade organization, were somewhat mixed. " * * * members participating in the pilot program have found it workable and favor its continuation * * * One member participating in the pilot program told us it saves 4 days if he uses an expeditor and 3 weeks if he used the mails." On the other hand, NMA did advise that " * * * they have found one glaring problem. Either through a lack of information or not taking the initiative to find out for themselves, some IICs are not certain just what label approval authority they have."

The Task Force believed that better dissemination of information and improved training would eliminate this problem. This would be accomplished through a more detailed training guide, an in-depth orientation briefing, and increased supervisory support and communication.

There were nine comments from Agency field personnel. Several of these commenters had suggestions for broadening the IIC's authority and suggestions to authorize them to act upon labels that had several ingredients, such as, "Beef Steak with Salt," or "Beef and Pepper Steak."

Although the Task Force did not recommend that these specific types of labeling be delegated, it did recommend that the delegation of authority be considerably broadened, as discussed below.

9. *Pilot program analysis.* The pilot program began December 1, 1980, and ended July 29, 1981. By its end, 806 labels from 136 plants had been processed under the provisions of the program. In its 100 percent audit of these labels SLD confirmed as correct approximately nine out of 10 field labeling decisions. Thus, issue was taken with only about one labeling decision in 10 made under the delegation of authority.

Where issue was taken, the discrepancy was usually so minor that it had no effect upon the truthfulness of the label nor was it misleading to the consumer. In studying the nature of these issues, the Task Force concluded they could be avoided in most part through development of a more comprehensive instructional guide and a short period (5 to 10 hours) of preparatory training of IICs.

In addition to the audit of all labels that was cited above, a detailed analysis was made of the 233 pilot program labels submitted during its first 3 months. This analysis revealed the following:

1. Labels were submitted to IICs by management in 82 plants. This represented approximately half the plants (159) submitting any labels during the period. The remainder of the 625 plants in the three areas submitted no labels at all. These 82 plants submitted approximately half of their labels to the IIC; the other half going directly to Washington. Of those sent directly to SLD, 97 could have been acted upon by the IIC. These results led the Task Force to believe that if the pilot program was implemented nationwide, at least half of all labels submitted could be acted upon locally if only the limited authority granted in the pilot program were extended nationwide. As the advantages in terms of time and money became apparent, the Task Force felt that many more labels would be submitted to the IIC.

2. More than 90 percent of the labels were acted upon and returned to plant management within 2 days, with almost half being returned the same day as they were received. A concurrent sample survey of labels received at SLD revealed that a minimum of 3 days elapsed from the date a label approval application was signed by a plant official until it was received in Washington, much less acted upon. Plant officials' comments revealed their appreciation of this time saving.

3. There was little impact upon the IIC's workload. Few IICs processed more than one label a month and almost nine out of 10 labels were processed within an hour; two-thirds within a half hour.

After reviewing the experience gained during the first 3 months of the pilot program, the Task Force recommended that field delegation be adopted. A copy of the Task Force's Final Report is available for review by the public in the Regulations Office. The findings of that report were confirmed during the last 5 months of the pilot program, and these

data are also available for review in the Regulations Office.

As a result of suggestions from industry and inspection personnel, and the demonstrated competence of IICs, the Task Force, in its recommendations, added several labeling types to those the IIC could act upon in the pilot program. The total list of labeling decisions the Task Force recommended be delegated are as follows:

1. Previously approved labels or labeling where the modifications fall into one of the following categories:
 - a. Those labels and other labeling identified in 9 CFR 317.4(c), 317.4(d), 317.5, 381.134 and 381.135.
 - b. Meat and poultry inspection legends.
 - c. Meat carcass and meat food product brands.
 - d. Color changes, provided they are contrasting and legible.
 - e. A "simple" change to a previously approved label which contains nutrition labeling, provided there is no change to the nutrition labeling.
 - f. Previously approved product packaged under different brand names, provided there are no design changes and the brand name is not false or misleading.
 - g. Hotel, restaurant, and institutional products that are repacked from other federally inspected establishments and, therefore, have approved labels.
 - h. Company name and address changes in the signature line.
 - i. Reduced sizes of approved labels, provided all minimum size requirements specified in the regulations are met and the label is legible.
 - j. Same product packed in different weights where one label has been previously approved, provided the net weight size complies with the regulations.
 - k. Changes in recipe information about how the product could be used which are often given on the side or back panels of the label.
 - l. Removal of expired coupons from previously approved labels.
 - m. Establishment number changes, provided there is no change to the rest of the approved label.
 - n. Previously approved labels with cents off claims.
2. Shipping containers bearing or referencing the product name.
3. Labels or other labeling not previously approved for products containing a single ingredient and which do not contain information, statements, or claims, such as:
 - a. Quality claims including but not limited to such things as: Blue Ribbon, Choice, Prime, etc.;

b. Negative claims (e.g., "no preservatives");

- c. Geographic claims;
- d. Nutrition claims;
- e. Guarantees; or
- f. Foreign language.

4. All final labels or other labeling having a sketch approval from SLD when the final labeling exactly matches the approved sketch.

The Agency has considered all of the Task Force recommendations discussed above, as well as the industry petitions and comments received. Based on this body of data, the Agency is proposing to delegate permanently certain labeling approval authority to the IIC. The use of IICs to approve labels or other labeling would be voluntary and official establishments would have the option of submitting applications for approval of these types of labels or other labeling to the IIC or to SLD. In this proposal, the Agency is drawing heavily on the Task Force recommendations and the experience gained from the pilot program because this alternative program successfully maintained an appropriate level of regulatory control in the labeling area while accommodating many of the concerns raised by critics of the present program. The Agency is also proposing a third category of labeling that could be generically approved. This approach was suggested in several of the industry petitions. The Agency believes that an appropriate level of regulatory control of generic labeling is also possible if the category is narrowly and explicitly defined.

This Proposal

1. *Introduction.* If adopted, this proposal would provide for the following:

1. The authority of the IIC to approve a variety of labels and labeling changes would be greatly expanded (the specific categories of labeling are discussed in detail below).
2. Participation in the IIC approval program would be voluntary. Official establishments would retain the option of obtaining SLD approvals for any and all labels or other labeling changes.
3. Labeling which did not have to be submitted to SLD would be subdivided into two groups: Those which would be approved by the IIC and subject to an SLD audit and those which would qualify for generic approval, i.e., those which would not need to be prior approved by the IIC; however, the establishment would be required to provide a copy of the labeling to the IIC prior to the time the labeling is used.
4. Written authorization from the Agency would continue to be required as a precondition to the use of any

labeling except for generic approvals submitted to the IIC.

5. A denial of a labeling application by the IIC or of the use of labeling alleged by the establishment to be generically approved would preclude the use of the labeling unless and until the appropriate authorization were obtained from the SLD staff.

From the Agency's perspective, this proposal should provide a means of better utilizing the Agency's existing resources, and in turn, should improve the efficiency and effectiveness of the current labeling approval system. There are several reasons for this. Inspectors-in-charge have a much closer view of the actual capability and processing procedures of the individual plants. Therefore, they are in a good position to review and evaluate the accuracy of a plant's labeling. Furthermore, increased IIC involvement is likely to result in greater concern on the part of the IIC that the labeling accurately describes the product and process. Since only final labeling with previously approved sketched and "simple" labeling could be approved by the IIC, a minimum amount of training would be necessary. Moreover, uniformity and consistency in labeling policy would be maintained since, by definition, policy issues would not fall in the category of "simple" labeling and, therefore, would have to be resolved by SLD.

This proposal also seems beneficial to industry. A decrease in lag time could be expected for those labels and other labeling which now have both a sketch and final approval in Washington. Rapid identification of errors in labeling could also result due to the availability of plant procedures and operations to the IIC. Furthermore, industry stated a preference for face-to-face contact on labeling approval in its comments to the February 1980 proposal. The IIC provides this personal contact with plant representatives. Again, these advantages are supported by the Task Force's Final Report which establishes the success of the field delegation pilot program and supports the Agency's determination that active IIC participation in the labeling approval process is both reasonable and desirable. Alternative approaches have not been subjected to this type of experimentation and detailed analysis.

Reviewing its experiences under the pilot program, the Agency has recognized that it may be unnecessary to establish an affirmative approval and auditing requirement for all labeling submitted to the IIC. Some formulation or labeling changes are so minor that specific prior approval by SLD

represents an unnecessary regulatory activity. Moreover, since SLD is generally not in the best position to monitor directly compliance with an approved formulation for a product, its ability to audit the accuracy of a label or other labeling change which simply reflects a variance in the approval formulation is very limited. For example, if an establishment wished to introduce a new 2-pound package of frankfurters, it may wish to use a label which would be identical in every respect to one already being utilized on a 1-pound package. Under these circumstances, the only change would be a different specification of the number of ounces in the package. If SLD had a copy of the original 1-pound label which would be subject to audit, the only remaining question would be that of compliance with the stated quantity of contents, and this could only be monitored by the IICs.

In an effort to lessen the regulatory burden on industry without compromising the truthfulness and accuracy of meat and poultry product labeling, the Agency is proposing to approve generically certain types of labeling. In such cases, the establishment would only be required to submit a copy of the labeling to the IIC prior to use. Thus, the responsibility for ensuring that the labeling is in compliance with the Federal regulations would rest with the establishment. Such labeling would be monitored by the IIC and could be withheld from use by the IIC if found to be out of compliance with the regulations. Due to the experimental nature of this procedure the category of generic labeling approvals is narrowly defined in this document. However, the types of labeling or labeling modifications included in this category could be expanded in the future if this procedure proves successful.

This proposal would create three categories of labeling. The first category—labeling requiring central approval—would be reserved for labeling involving complex issues or issues where consistency would be both important to maintain and difficult to achieve if delegated to the local level. The second category of labeling—those the IIC could approve with a later audit by SLD—would involve labeling or labeling modifications which the IIC is fully capable of approving, but because of the nature of the change, it would be advisable to double-check the approval for the detection of possible errors, the monitoring of consistent application of Agency policy, and the maintenance of a central labeling approval file. The third category of labeling—those generic approvals which the IIC could simply

keep on file for his or her records—would involve labeling or labeling modifications for which prior approval by SLD or the IIC is unnecessary and/or, as in the above example, labeling for which SLD does not appear to be in a good position to audit, and the labeling is such that a copy of it would not have to be included as part of the central labeling file. No audit would be conducted by SLD.

If adopted, this aspect of the proposal should reduce paperwork while providing for a more meaningful utilization of auditing resources by this Agency. In this context, additional comment on the concept of generic labeling approval and the broader question of auditing procedures under the proposed regulation is particularly welcomed.

2. *The Role of the Inspector.* Some critics of the present system have suggested that the changes being proposed would be insufficient to deal with the problems cited earlier. Those who hold this view advocate either a total or partial elimination of the basic requirement that labels and other labeling be approved prior to its use. The AMI petition, for example, suggests elimination of the requirement that most labeling be submitted to the Department for approval prior to its use. Copies of labeling would be supplied to the IIC and to the SLD staff for auditing purposes, but the IICs role in denying the use of any labeling would be substantially limited.

The arguments against a continuation of the present system of prior approval of labeling have been considered in the development of this proposal and, to a certain extent, they have been adopted. In the Administrator's opinion, however, those who characterize the prior label approval process as an unnecessary regulatory burden may have failed to give sufficient consideration to both the specific language and the overall intent of both the FMIA and the PPIA.

Section 7(a) of the FMIA (21 U.S.C. 607(a)) requires the person, firm, or corporation preparing any meat or meat food product for commerce in an establishment which maintains inspection under the provisions of this Act to attach a label to the package, under the supervision of an inspector, stating that the contents have been "inspected and passed."

This provision further specifies that no inspection and examination of such products shall be deemed complete until such meat or meat food products have been sealed or enclosed in a receptacle or covering under the supervision of an inspector. In addition, section 7(b) of the

FMIA (21 U.S.C. 607(b)) and section 8(a) of the PPIA (21 U.S.C. 457(a)) provide that all carcasses, parts of carcasses, meat, meat food products, and poultry products inspected at any establishment under the authority of these Acts and found to be not adulterated shall at the time they leave the establishment bear, in distinctly legible form, directly thereon or on their containers, as the Secretary may require, the information required under the misbranding provisions of these Acts (21 U.S.C. 601(n) and 21 U.S.C. 453(h)).

Support for these provisions can be found by examining the legislative history of the original meat inspection legislation. On June 14, 1906, the Committee on Agriculture submitted a report to the House of Representatives discussing the provisions of the Act. This report provides the following relevant passage:

* * * the inspection shall be maintained upon the meat-food products until the can or receptacle is actually sealed, and for the proper and careful labeling of the same.

The language of the original legislation has remained fundamentally unchanged. Both the FMIA and the PPIA, require, among other things, the inspection of the processing, including the marking, labeling, and packaging of meat and meat food products and poultry products. Products which are misbranded may not be marked as "inspected and passed", removed from an official establishment, sold, or otherwise distributed. It is the responsibility of the IIC to assure compliance with these requirements. Such actions constitute violations of the FMIA and the PPIA, and subject the violators to criminal and civil sanctions under the Acts.

More specifically, section 7(d) of the FMIA (21 U.S.C. 607(d)) and section 8(c) of the PPIA (21 U.S.C. 457(c)) prohibit the distribution of any article under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but permits the use of established trade names and other marking or labeling and containers which are not false or misleading and which are approved by the Secretary. Additionally, section 7(e) of the FMIA (21 U.S.C. 607(e)) and section 8(d) of the PPIA (21 U.S.C. 457(d)) provide the Secretary with the authority to withhold the use of any marking, labeling, or container in use or proposed for use with respect to any article subject to the Acts if there is reason to believe that the marking or labeling or size or form of the container is false or misleading in any particular.

These provisions, coupled with the Department's mandate to prevent the distribution of meat and poultry products which are unwholesome, adulterated, and not properly marked, labeled, and packaged, establish the need for a system of "prior label approval." All other systems fail to recognize the Secretary's statutory responsibility to withhold labeling "proposed for use" that is false or misleading.

While these provisions of the Acts require the Department to approve labeling prior to its use, they do not dictate that the approval system be centralized or decentralized to any degree. They also do not dictate the establishment by regulation of any particular system for the granting of such approvals. One option would be a system under which all labeling or certain classes of labeling which met specified regulations would be approved; i.e., they would be given prior "generic" or "blanket" approval. As delineated more fully elsewhere in this document, the authority of the Agency's representatives to withhold the use of any labeling that was considered to be false or misleading or otherwise not in accordance with the Act or the regulations would be maintained.

AMI appears to have recognized this point in its petition by specifically recommending that inspection personnel not be allowed to withhold the use of any labeling. Under the AMI proposal, such action could only be initiated by the SLD staff as part of its auditing program. Moreover, this Petitioner asks that labeling modifications found to be necessary during the SLD audit should only be made after the existing supply of labels is exhausted, as long as the misbranding does not involve product safety or significant economic deception. It appears that under this proposal, the IIC could not reject the use of a label or other labeling unless and until such a negative auditing determination was made, even if he or she believed that it would misbrand the product, and in so doing was in clear violation of the Acts and the implementing regulations.

AMI's views in this area were further stated in a letter of November 24, 1981, which served to supplement its earlier petition. In the November 24, letter, AMI specifically recommended that:

1. Specific categories of labels be subject to blanket or generic approval rather than specific premarket approval;
2. Question raised by an inspector regarding labeling of a minor or routine nature would be routed to SLD for consideration as part of its auditing function;

3. Questions of a more serious nature raised by an inspector regarding labeling would be immediately referred to SLD for an immediate determination as to whether there was a basis for detention of product labeled in this fashion; and

4. Appeals of such decisions to detain could be referred to the Director of SLD who would be required, within 3 working days to reach a decision.

The Administrator has tentatively concluded that any regulation which would place such broad, ongoing restrictions on the IIC's authority and responsibility to take action against misbranded product would be contrary to the requirements of the FMIA and the PPIA. In addition, such an approach would appear to dictate an inefficient use of Agency personnel, since the in-plant Agency employees, those most able to monitor a plant's actual labeling practices, would be unnecessarily restrained from carrying out one of the Agency's central enforcement responsibilities.

In analyzing this issue, it is useful to examine the IIC's authority and responsibility in the misbranding area under current regulations and procedures. At the present time, except in the limited areas noted above, the IIC's role in the actual approval of labeling is severely limited, since virtually all labeling applications are reviewed by SLD. When an approved label or other labeling with accompanying formulation information is returned to the IIC, both the IIC and plant management will ordinarily assume that the labeling, if properly used, is in full compliance with all applicable regulations. In some instances, however, the IIC may not agree with the determination and may bring concerns to the attention of supervisors or the SLD staff. Errors in the approval process are identified through just such a process, and corrective action is taken. This would generally involve some direct reevaluation of a previous decision by the SLD staff; absent special circumstances the IIC is not in a position to ignore or directly overturn an SLD labeling decision.

It is important to emphasize, however, that there are distinct limitations which are inherent in the centralized approval process. The SLD staff has ordinarily not had the opportunity to review the product itself, only a description of its ingredients and its formulation. Its judgments can therefore only be considered definitive for questions which do not extend beyond the labeling itself, such as the inclusion of a required establishment number designation, and

are only valid when the processing and formulation procedures do not vary from those reviewed. The IIC must still monitor compliance with this agreed-upon processing procedure and must withhold the use of approved labeling when certain variances have occurred. For example, a processor may obtain SLD approval of a label for a "beef stew" product. His application would indicate the product is formulated with a minimum of 25 percent beef, in accordance with the applicable standard, and the label, if otherwise correct, would be approved. However, if the establishment were to attempt to apply this approved label to a product containing only 20 percent beef, its use should be withheld by the IIC, even though the original review determination was the correct one. In other words, the application and approval process creates an agreement between the Agency and the establishment that a given label may be used if a product is formulated in a given way. However, the SLD staff has no means of assuring the continued adherence to the formulation agreement. This remains the IIC's responsibility.

In this context, it is very difficult to think in terms of a regulatory process which would deny inspectors the right to withhold the use of a label or other labeling or to retain and to take other actions with respect to misbranded product, and still be consistent with the language of the FMIA and PPIA. As long as this basic inspection authority is retained the question of how the IIC must "approve" a given label, whether through an affirmative act such as signing a form or more indirectly through not withholding its use, would appear to be an issue of mechanics, an issue entirely within the discretion of the Administrator. In order to maintain proper records and to minimize confusion when IIC's change assignments in various plants, the Agency is proposing that all applications for labeling be submitted to the IIC prior to use. Labeling requiring prior approval by the IIC would, in fact, be signed by the IIC while generic labeling approvals would not require the IIC's signature. No one, however, would be forced to utilize the IIC in this fashion; an establishment would always retain the option of submitting any and all of its labeling applications to SLD.

This proposal would have the following effects on the authority of the IIC to approve labels and labeling modifications under the meat and poultry inspection regulations:

The language of § 317.4(a) would be changed to clarify the delegation of

labeling approval authority. The proposed amendments permitting approval of labeling by the IIC would be a legal delegation of authority. Hence, such approvals constitute the Administrator's approval just as SLD's approval does. In addition, the requirements for quadruplicate submissions of labeling would be changed to triplicate because an extra internal control copy of the labeling would no longer be required.

Section 381.132 of the poultry products inspection regulations (9 CFR 381.132) would be changed. This would be done to increase the uniformity between the meat and poultry products inspection regulations and because the language of the poultry products inspection regulations appears to require that both sketches and final labeling be approved. In fact, the Agency has never enforced the requirement that sketches be approved, and the proposed language would reflect the actual practice.

Section 317.4(e) of the meat inspection regulations (9 CFR 317.4(e)) and § 381.132(c) of the poultry products inspection regulations (9 CFR 381.132(c)) would deal with those instances in which the IIC could permit modification of certain labeling and approve certain types of labeling. Section 317.5 of the meat inspection regulations (9 CFR 317.5) and § 381.134 of the poultry products inspection regulations (9 CFR 381.134) would deal with those types of modifications to previously approved labeling which would be generically approved.

3. Categories of Labeling to be Approved by the IIC. The first category in which labeling could be approved by the IIC (proposed § 317.4(e)(3)(i) of the meat inspection regulations and proposed § 381.132(c)(3)(i) of the poultry products inspection regulations) would be in situations in which the labeling has been approved by SLD in sketch form and the final labeling is prepared without modification or with only minor modification. Minor modifications will be discussed in greater detail below. In the pilot program IICs were found fully competent to approve all final labeling having a sketch approval by SLD. This proposed delegation of authority goes somewhat beyond that tested in the pilot program, where the final labeling was required to be exactly the same as the approved sketch, and would permit IICs to approve final labeling with minor modifications from the approved sketch. Sketches would be defined to include printers' proofs or other comparable copies which clearly show all labeling material, size, location, and some indication of final color. "Minor

modifications" to an approved sketch would be defined as those modifications outlined in the proposed regulations in 9 CFR 317.4(e)(3)(iii) or 317.5(b) or 9 CFR 381.132(c)(3)(iii) or 381.134(b), which could otherwise be approved by the IIC. The AMI petition proposed this more expanded approach and the Agency agrees that it should be proposed.

It appears that industry would benefit from such delegation of authority, with no adverse effect upon labeling quality, through elimination of the mail time required for approval of the final labeling. Further, plant management could still make those minor modifications to the final label or labeling that the IIC is authorized to approve elsewhere in 9 CFR 317.4 or 9 CFR 381.132 or that are generically approved in 9 CFR 317.5 or 9 CFR 381.134. Copies of the final approval would have to be sent to SLD by the IIC for auditing and filing.

The next category relates to "simple labeling" (proposed § 317.4(e)(3)(ii) and § 381.132(c)(3)(ii) of the meat and poultry products inspection regulations). This "simple labeling" would consist of single ingredient labeling which does not make any special claims (i.e., quality, negative, geographic, nutritional) or contains any guarantees or foreign language.

It is, perhaps, apparent that guarantees and foreign language add complexity to labeling. It may be less readily apparent that claims add complexity. For example, one manufacturer may try to make a claim that a product has a novel feature, such as "no preservatives". Such a claim can be an important buying aid especially for a consumer with a special dietary problem and is not misleading if applied to a product which does not include such substances although their use is generally expected in that type of product. For this reason, the Agency is proposing a system which will allow it to examine claims closely to assure that they are neither rejected if they are truthful and not misleading, nor approved if their use would constitute misleading labeling.

There were no problems encountered with the approval of "simple labeling" in the pilot program, and its adoption was recommended by the Task Force. AMI also recognized in its petition that "simple" labeling to which claims had been added placed the labeling in a different category where the uniformity and consistency of SLD was required. Copies of the final approval would have to be sent to SLD by the IIC for auditing and filing.

The next category, proposed § 317.4(e)(3)(iv) and § 381.132(c)(3)(iv) of the meat and poultry products inspection regulations, would cover labeling for products sold to the Federal Government on contract. Products prepared for the Government are usually manufactured to particular Government specifications, so that many of the concerns associated with misleading consumers are absent. Although this was not tested in the pilot program, recommended by the Task Force, or contained in the AMI petition, this provision has been in the poultry products inspection regulations for a long time and has worked well; therefore, it has also been proposed for the meat inspection regulations. Copies of these approvals would have to be sent to SLD by the IIC for auditing and filing.

Proposed § 317.4(e)(3)(v) and § 381.132(c)(3)(v) of the regulations would provide for IIC approval of labeling for shipping containers which contain fully labeled immediate containers. Since IICs already have this authority regarding poultry products under the current regulations and no problems have arisen with the delegation of authority, it seems logical to extend this authority to cover meat products. Copies of these approvals would have to be sent to SLD by the IIC for auditing and filing. The changes to the current poultry products inspection regulations in this connection are essentially editorial to retain the format of this proposal.

Proposed § 317.4(e)(3)(vi) and § 381.132(c)(3)(vi) of the regulations would cover products not intended for use as human food (used as animal feed or for inedible purposes) and also products, such as chicken feet, which are used for human food in countries other than the United States. In the case of products not used for human food, the Agency's sole interest, under its legislative mandate, is to identify sufficiently the product so that it would not be used as or become mixed with product that is intended for use as human food. This does not require a complex or sophisticated labeling approval function. Since IICs already have this authority regarding poultry products under the current regulations and no problems have arisen with this delegation of authority, it seems logical to extend this authority to cover meat products. Copies of these approvals would have to be sent to SLD by the IIC for auditing and filing.

Proposed § 317.4(e)(3)(vii) of the meat inspection regulations and § 381.132(c)(3)(vii) of the poultry

products inspection regulations would permit the IIC to approve meat and poultry products inspection legends, respectively. This authority was delegated to the IICs in the pilot program and revealed no significant problems. The Task Force recommended that this authority be permanently delegated. There appears to be little chance for error since examples of these legends appear in the regulations for exact comparison. In addition, minor differences, such as a legend being slightly out of round in final printing, would not have the effect of being misleading. Copies would have to be sent to SLD by the IIC for auditing and filing.

Proposed § 317.4(e)(3)(vii) of the meat inspection regulations would permit the IIC to approve the ink brands used on meat and meat food products and the hot brands used on meat food products. The approval of these brands was also tested in the pilot program, worked well, and was recommended by the Task Force as a function to be delegated to the IIC. Traditionally, brands have not been used in poultry products inspection, so the IIC would not be delegated this approval authority regarding poultry products. There appears to be little chance for error since examples of these brands appear in the regulations for exact comparison. In addition, minor inconsistencies or changes do not seem to have the potential of being misleading. Copies would have to be sent to SLD by the IIC for auditing and filing.

Proposed § 381.132(c)(3)(viii) would add to the poultry products inspection regulations a provision that has long been in the meat inspection regulations relating to the IIC approving inserts, tabs and similar labeling material, which contain no reference to product name. Copies would have to be sent to SLD by the IIC for auditing and filing.

Proposed § 317.4(e)(3)(iii) and § 381.132(c)(3)(iii) of the regulations would deal with those "minor modifications", in category two described above, to previously approved labeling that the IIC may approve. The IIC would have to submit a copy of the modified approval to SLD for auditing and filing. Each of these "minor modification" will be discussed individually below. The proposal that these modifications be included is based on the Task Force recommendations and the AMI petition.

The IIC could approve labeling for previously approved product packaged under different brand names, providing there are no design changes, the brand name does not use a term that connotes quality or other product characteristics,

the brand name has no geographic significance, and the brand name does not affect the descriptive name of the product. This would provide more flexibility to industry. Changing only the brand but not the label design would appear to have no potential for misleading the consumer, provided the brand name itself is not misleading. For example, a name such as "Prime Brand" might be misleading as to the grade of the product. Such a possibility should be obvious to the IIC. The Task Force recommended that this authority be delegated. To assure consistency, however, the IIC would have to send copies of these label modifications to SLD for auditing and filing.

The IIC could also approve the deletion of the word "new," which is often used in a flag or sunburst on the labeling of new products when they are first introduced, from the labeling after the time period permitted by the Agency for its use has expired. This modification was an AMI petition recommendation, and it appears to the Agency that this authority should be delegated. This should provide industry with the ability to obtain speedy local approval with little possibility of misleading the consumer. Copies of the labeling approval would have to be sent to SLD for auditing and filing because the original approval from SLD would have been a temporary approval because of the use of the word "new" and the temporary nature of its accurate meaning to the consumer.

The IIC could also approve the addition, deletion, or amendment of handling instructions, provided the change is consistent with 9 CFR 317.2(k) and 381.125. This modification was an AMI petition recommendation, and it appears to the Agency that this authority should be delegated. This change could also provide industry with the ability to obtain speedy local approval with little possibility of misleading the consumer. Copies of the labeling approval would have to be sent to SLD for auditing to assure consistency and uniformity.

Another type of labeling modification could also be approved by the IIC. This modification includes color changes, but the IIC would be required to decide if the color change is contrasting and legible. The change, although not tested by the pilot program, was recommended as one of the areas for expansion by the Task Force and the AMI petition. The current poultry products inspection regulations permit the IIC to approve such changes when there is also a proportionate enlargement. Because this limited authority to approve color changes has caused no problem, it

appears logical to expand this authority to cover all color changes to the label for both meat and poultry, provided the change results in similar legibility and contrast as the originally approved label. It is believed the limitation "contrasting and legible" would prevent essential and required information from being buried by a color change. The IIC would have to forward a copy of the label to SLD for auditing and filing.

The IIC can currently approve a change in the quantity of an ingredient shown in the formula without a change in the order of predominance which is shown on the label (9 CFR 317.5(f) and (9 CFR 381.135(a)(7))). The IIC could continue to approve this type of modification with the proposed regulation. A copy would be submitted to SLD by the IIC for audit and filing.

Finally, the IIC would also be given the authority to approve the addition, substitution, or deletion of an official USDA grade shield. This delegation was a recommendation of the AMI petition, and it appears to the Agency that delegation of such authority is desirable. Copies of the labeling approval would be audited by SLD.

4. Generic Labeling Categories.
Proposed § 317.5(b) and § 381.134(b) of the regulations would deal with minor modifications, in the third category of labeling which was described above, to previously approved labeling that could be considered generically approved. The establishment would simply have to submit a copy to the IIC for his or her records prior to actual use of the labeling. Each of these "minor modifications" will be discussed individually below.

The IIC, in both the current meat and poultry products inspection regulations, may approve the proportionate enlargement of all features of the label. The current regulations also deal with color scheme. However, in this proposal the color scheme provision would be dealt with separately. The current modification would be expanded to allow generic approval of both proportionately enlarged and proportionately reduced labeling. The approval of proportionate reduction, although not tested in the pilot program, was recommended by the Task Force.

This modification would give industry more flexibility in coping with technical printing or equipment changes that might dictate reduction in labeling size. Because no problems have arisen in the currently authorized IIC approval of labels being proportionately enlarged, it seems logical to expect the same results could be anticipated through generic approval of these modifications. It is

expected that retention of specified minimum size requirements and legibility in the regulations would prevent the consumer from being misled. A copy of this labeling would have to be submitted to the IIC prior to its use.

The other labeling modifications which the IIC can currently approve would remain essentially unchanged from their present wording in the meat and poultry products inspection regulations (9 CFR 317.5 (b) through (e) and 9 CFR 381.135(a) (2) through (5)) except that these modifications would now be in the third category—generic approval. Under 9 CFR 381.135(a)(6), IICs have been approving modifications regarding poultry products where the appropriate name or class of the poultry is added to a master or stock label which was approved without this information. This modification would be deleted from the poultry products inspection regulations because all of the labels under this modification would be covered under the broader modification of single ingredient labels that is being proposed. The specific modification, therefore, would no longer be necessary and would be deleted.

Other modifications that could be generically approved include the addition, deletion, or amendment of a coupon, a cents-off statement, cooking instructions, packer product code information, or UPC product code information. These changes were recommended in the AMI petition. It appears to the Agency that these changes could be generically approved, and thus, the Agency has proposed their inclusion. The quality of the labeling would not seem to be hampered, provided the addition or amendment of such information does not crowd or obscure the mandatory information in any way.

Company name and address changes in the signature line could also be generically approved. This would provide for speedy labeling printing whenever a firm changed its name or there was an address or zip code change. Such changes seem to have little potential for misleading the consumer. A copy of the modified labeling would have to be submitted to the IIC for filing prior to its use. This change was recommended by both the AMI petition and the Task Force.

Changes in the net weight statement where the same product is simply being packed in different weights and one label had been previously approved, provided the net weight print size complies with the regulations could also be generically approved. This change was recommended in the AMI petition. This would provide greater flexibility to

industry and would substantially reduce the number of labels submitted to SLD. It appears that the accuracy of the label would not be hampered in any way since the original label would have been reviewed and approved by SLD or the IIC. With that approval, industry could produce product in any other weight desired. A copy of the labeling would have to be submitted to the IIC for filing prior to its use.

The addition, deletion, or amendment of recipe information about how the product could be used, which is usually given on the side or back panels of the label, would be eligible for generic approval. Such changes should have no effect on the approved label, and thus, have little potential for misleading the consumer. This change would provide industry the opportunity of either adding or changing a recipe or printing a variety of recipes. The AMI petition recommended this approach. A copy of the labeling would have to be submitted to the IIC for filing prior to its use.

In addition, all changes in punctuation would also be eligible for generic approval. The AMI petition recommended this modification. It appears that such change would enable industry to modify labels faster without misleading the consumer. A copy would have to be submitted to the IIC for filing prior to its use.

The final modification that could be generically approved would be newly assigned or revised establishment numbers for a particular plant, provided there would be no change to the rest of the approved label. A copy of the label would have to be submitted to the IIC for filing prior to its use. The change in an establishment number for a particular plant would not basically affect the already approved label. The AMI petition extended this to include any establishment number change. The Agency is not proposing that all establishment number changes on a label would be generically approved.

Specifically, the change of an establishment number on previously approved labeling which would be eligible for generic approval would only be for the particular establishment which obtained the previous approval from SLD or the IIC in that establishment. An IIC in a California plant would have no quick and effective method of determining whether or not a label shown for that company's plant in New York was actually approved as presented or whether it had been rescinded or modified, i.e., the label purportedly being used in New York may not in actuality be used. The best and most efficient way to approve such establishment number changes to

previously approved labeling is through central approval. Therefore, when an establishment number shown on a label changes simply because the product is being produced at two or more different plants owned by the same company or because the product is being packed by two or more different establishments for the same company, the labeling approval must still be obtained from SLD. It should be noted, however, that only one such application is necessary. The labeling application can simply indicate all establishments which would be producing the product (with a copy of the application attached for each IIC at each establishment). When the labeling is approved, SLD will send a copy to each IIC at each establishment.

5. Appeals. As part of the overall review of the prior labeling approval process, FSIS has considered various options for change in the areas of appeals of label review decision. This proposal does not include provisions for substantial changes in the area of such appeals, although the increase in IIC involvement in the labeling process contemplated by the proposal and the establishment of generically approved categories will obviously dictate some degree of change in this general area.

At the present time, appeals of informal decisionmaking in the label review area are controlled by § 306.5 of the meat inspection regulations and § 381.35 of the poultry products inspection regulations which state that any appeal from a decision of any program employee shall be made to his or her immediate supervisor having jurisdiction over the subject matter of the appeal, except as otherwise provided by the applicable rules of practice. In an effort to avoid any confusion which may result from the proposed delegation of label approval authority to the IIC, the Agency is proposing to amend these provisions to clarify that denial of a labeling application by the IIC would not constitute a basis for an appeal under the appeal provisions of the regulations.

A related question concerns the possibility of an establishment submitting a label to the IIC which has been rejected by SLD. This practice would be specifically prohibited in the proposal. To provide otherwise would permit a mechanism whereby the IIC could "overrule" the SLD labeling experts. In addition, an establishment would assume a high degree of risk in proceeding with such an approval which would be subject to audit and modification consistent with the original SLD decision.

Both sets of regulations also specify more formal procedures for the review of final decisionmaking by the Agency in the labeling area. Under the applicable rules of practice (9 CFR 335.12 (meat) and 9 CFR 381.233 (poultry)), an applicant may, upon written notice of the denial of a labeling application by the Administrator, seek a hearing before an Administrative Law Judge of the Department. Under these circumstances, the Administrator's denial becomes the complaint, and the applicant's response the answer, in the administrative proceeding which follows. A decision of an Administrative Law Judge following an evidentiary hearing may be, in turn, appealed to the Department's Judicial Officer, who retains the authority to make the Department's final judgment on the matter. An applicant who disagrees with the Judicial Officer also retains a further right of appeal to the appropriate Federal court.

At both the formal and informal level, the appeals process has an important policymaking function. Novel issues not specifically addressed by regulation or precedent frequently arise, and the initial decision of the label reviewer, who generally functions under a great deal of time pressure, may very well be a legitimate subject for further policy consideration within the Agency. Obviously, there is also a relationship between the economic impact of a label review decision and the tendency of an applicant to utilize the appeals process. The more financially important obtaining an approval is to an applicant, the more persistent he or she is likely to be in attempting to obtain it.

Under these circumstances, unnecessary delays in the appeals process may have significant consequences, particularly when the use of labeling is being withheld pending a resolution of the issue. In its petition, the AMI has emphasized its concern in this area by suggesting that a 5-day limit be imposed upon decisionmaking at the staff (SLD) level. This would be coupled by another 5-day limit to be imposed upon the Administrator acting "separate and apart" from the Agency staff. At that time, a final Agency decision would be issued, subject to the same appeal to an Administrative Law Judge. However, during the pendency of this formal appeal, the applicant would retain the right to use the labeling in question.

The greater involvement of the IIC would obviously have an impact upon this process. However, the proposal to make IIC approvals and generic approval an option to be exercised at the discretion of the applicant may

actually serve to effect less change in this area than one might expect. Since any labeling applications could still be submitted to SLD, if the proposal were finalized, the applicants would have the option to seek SLD review of any IIC labeling decision with which they might disagree. The Agency currently believes that there would be no particular value, for recordkeeping purposes, in delineating such an action as an "appeal," since the application could simply become a routine application upon submission to SLD. This approach would appear to be responsive to those who have expressed concerns about the possibility of inconsistent and/or unfair decisionmaking at the IIC level. The applicant who has such a concern is in the position to submit the labeling in question to SLD and have it reviewed in the traditional manner. However, the Agency is particularly requesting comments on this "appeal" issue since the potential does exist for an establishment to submit identical applications to both the IIC and SLD in the hopes of gaining approval through possible inconsistent treatment.

While additional comment on the issue is encouraged, the Agency does not see any compelling reason for proposing additional changes in its regulations regarding appeals. A variety of controversial and economically significant issues are considered by Agency personnel both inside and outside of the labeling area, and the general "chain-of-command" approach as specified in §§ 306.5 and 381.35 has proved workable. The 10-day limit suggested by AMI appears to be unrealistic. While such a period of time may prove more than sufficient to dispose of a relatively simple issue, labeling applications may generate complex issues in areas such as food safety and consumer perceptions, and in such instances decisionmaking within such a period of time might prove precipitous and irresponsible. The establishment of such a 10-day limit might, therefore, establish an artificial mechanism which would dictate premature decisionmaking on a broad range of issues by the Administrator. The Agency is also quite reluctant to establish a mechanism through which the Administrator could be inundated with problems which can generally be resolved at a lower level of the organization.

In addition, FSIS has, in recent months, taken specific steps to improve and clarify the informal appeals process. In an internal memorandum dated April

30, 1981,² the Division Director instructed SLD to observe certain procedures in the processing of appeals. The responsibilities of various individuals in the Division for making, supporting, and reviewing decisions are clarified, and a simple process which includes the voluntary submission by the applicant of a form, titled "Request for Label Reconsideration" (OMB No. 0583-0048) is discussed. The procedures outlined in the memorandum appear to have been successfully implemented, and the forms have been useful to both applicants and their agents and Agency personnel in identifying and tracking all the relevant information regarding a labeling dispute. In many instances, this has led to a faster turnaround on specific appeals.

This experience has served to reinforce the basic notion that the Agency and the public would not be best served by the establishment of a more rigid and inflexible appeals system. Additional improvements and innovations in this area, particularly those generated by comments to this proposal, are, of course, highly desirable. However, the Administrator believes that this can best be accomplished within the framework of the current regulations.

At the more formal level, no regulatory changes are being proposed. The suggestion that any label or other labeling which is the subject of a formal appeal be utilized pending the resolution of the dispute by the Administrative Law Judge is not being proposed. As discussed earlier, the Agency believes the establishment of any mechanism whereby an applicant would automatically be permitted to utilize labeling which the Agency believes to be false and misleading would be inconsistent with the Agency's statutory responsibilities and would not be in the public interest. FSIS does recognize that its authority to withhold the use of particular labeling can have significant impact and should be carefully administered. Under appropriate circumstances, such concerns may also be somewhat mitigated by utilization of the temporary approval process discussed below.

6. *Temporary approvals.* Although not specifically authorized by current regulations, the practice of granting temporary approvals of labeling has developed under the present system as an important tool which may be used to assure equity and minimize the

² A copy of the memorandum is on file with the FSIS Hearing Clerk, Regulations Office, Food Safety and Inspection Service.

economic hardship which could otherwise result from certain labeling decisions. Temporary approvals permit limited use of labeling which may otherwise be deemed deficient in some particular. Under the proposal, this practice would be specified in the regulations and general guidelines for its application would be established.

In employing temporary approvals, the Agency has simply attempted to inject an appropriate level of flexibility into its labeling review decisionmaking. Temporary approvals are frequently granted after a sketch application has been reviewed and approved in error. Under these circumstances the applicant may have relied upon the earlier representation of an Agency representative and incurred printing costs and other related expenses. If the review of the final application reveals a minor error which was apparent, but not noted at the time of the sketch application, the final approval will ordinarily be granted for a specified period of time.

Requests for temporary approval are also made for a variety of other reasons, such as closings of plants, slight changes in formulation, and shifting of company operations. Such requests are handled routinely by SLD staff who consider the seriousness of the problem, the specific circumstances of the applicant, and the potential consequences of both granting and denying the request.

The Agency believes that the practice is a valuable one which should be preserved. However, its use, absent specific regulatory authorization, has been questioned. This proposal therefore includes a provision which would authorize the use of temporary approvals provided certain criteria are met.

More specifically, if this proposal were finalized, the practice of authorizing temporary approvals for a period not to exceed 180 days would be included in the regulations. This time limitation is proposed since it is generally consistent with past and present practice and would appear to establish sufficient time for applicants to make necessary adjustments. Whenever appropriate, shorter time periods would be specified. As presently proposed, however, no extension of the 180-day temporary approvals would be permitted. In some circumstances, this would be a departure from current practices. It appears that 180 days should provide sufficient time for applicants to make the necessary adjustments, but is particularly requesting further comment on this issue.

The proposed criteria for temporary approvals include a demonstration by the applicant that: (1) The proposed labeling would not misrepresent the product; (2) use of the labeling would not present any potential health, safety, or dietary problems to the consumer; (3) denial of the request would create undue economic hardship; and (4) an unfair competitive advantage would not result from the granting of the temporary approval.

In delineating these elements, the Agency is attempting to propose criteria which are specific enough to provide some additional clarity to the temporary approval process and are consistent with past practices. As is the case in the appeals area, the Agency has been reluctant to attempt to propose highly specific, inflexible criteria in an area where individual judgment remains an essential element of the overall process. Comments on the proposed criteria and on the general questions of their specificity are encouraged.

Temporary approvals could not be granted by the IIC under the proposal since they present, by their nature, complex labeling issues and since the Agency needs to maintain a fairly high level of centralized control over this aspect of the approval process. Decisions on temporary approvals would be treated just as any other labeling decision for the purposes of appeal.

An additional point should be made about the relationship between generically approved labeling and temporary approvals. As noted above, the establishment would have responsibility for the accuracy of generically approved labeling. As discussed, one factor behind the traditional willingness of the Agency to grant temporary approvals has been the recognition that a practice in need of correction may have been initially sanctioned by the Agency. Since no specific approvals would be issued by SLD for labeling in the generic approval categories, this would not be the case in this area. If a problem arises with a generically approved label, it is highly unlikely that a temporary approval would be granted.

7. Costs and benefits of proposed changes. The changes to the prior labeling approval system discussed above would have the greatest impact on three segments of the economy: the Federal Government (USDA/FSIS), the meat and poultry industry, and a segment of the business community known as meat and poultry labeling consultants. This section will briefly

discuss the costs and benefits to each of these groups.

There would be two basic impacts on FSIS that could occur as a result of the proposed modifications. The first impact, the cost of training, would not be excessive for the FSIS program. It would be a one time cost initially to train the approximately 3,200 IICs. After the initial training, labeling approval would be incorporated into future IIC training and refresher courses. The initial costs would include the development of a training guide, and more extensive training of five program assistants from the Regional offices in Washington. These program assistants would then train circuit and area supervisors as part of a regularly scheduled meeting of these program officials to avoid additional travel costs. These supervisors would then individually train IICs during their regularly scheduled visits to the establishments.

The second impact on FSIS would be the shift in costs of reviewing labeling from SLD to IICs. Currently, SLD employs eight label reviewers, who review approximately 100,000 meat and poultry labels and other labeling each year. The experience of the pilot program, which tested the feasibility of delegating certain approvals of labeling, enables FSIS to estimate that 50 to 75 percent of the labeling currently submitted could be approved by IICs or be generically approved. Thus, between 50 and 75 thousand labels and other labeling might be submitted to the 3,200 IICs. This would result in an average of 15 to 24 labels and other labeling per IIC per year. The pilot program experience showed that 67 percent of the approvals of labeling were completed by the IICs in less than 1/2 hour and that 90 percent were completed in less than 1 hour. Thus, the Agency concludes that the average IIC would spend less than 2 hours per month on approvals and review of labeling. Some variance around this average time allowance of 2 hours per month would be expected. The time allotted for IIC labeling approvals and review would depend on several factors including size of establishment, number of products processed, and types of products processed.

The Agency would benefit from the proposed action by operating a more streamlined and efficient labeling approval system. This more efficient system might eventually lead to either a more efficient use of, or a reduction in, SLD staff. The Agency might also benefit from a better industry understanding of the labeling approval system through increased

communication between plant management and the IIC during the approval process.

The major cost of the proposed changes to the meat and poultry industry would be the potential risk that IIC approved labeling or generically approved labeling would be rejected by a label auditor in Washington or by the IIC in the establishment. Of the 233 labels that were approved by IICs in the pilot program, 22 were overruled by SLD. It is expected that through a permanent program, improved training, and expanded instructional aids for the IICs, this error rate could be substantially reduced. This same problem occurs in the present system when a label has been approved in sketch form and then is found to be in error when the final labeling application is received or during audits of approved labeling. The SLD now handles these situations, and would plan to handle situations that arise under new regulations, in a reasonable manner. When use of these labels or other labeling that were approved in error by IICs would not present a health hazard or be misleading to the public, temporary approvals could be granted to allow already printed labeling to be used.

Utilization of the IIC's more extensive approval authority and generically approved labeling would be voluntary. Therefore, theoretically, there would be no additional costs to the industry that the industry would not agree to bear. If industry perceived that the costs outweighed the benefits, participation in the program would decline. Industry would benefit from the proposed action through a faster turnaround time for approval of labeling. Benefits may also be accrued through less burdensome paperwork and a better understanding of labeling decisions by plant management.

If these proposed changes are adopted, a significant economic impact would be likely to be realized by labeling consulting firms. These firms have established themselves as industry aids in handling meat and poultry product labeling approval applications. The firms provide consultation to industry, obtain forms and label sketches or final labeling and walk these through the approval process with the SLD label reviewers. Labeling consultants may also handle appeal procedures when industry formally disagrees with the Agency's label review. FSIS program personnel have information that indicates there are fewer than 15 high-volume labeling consulting firms, which have a total

employment of fewer than 25 people. The firms currently handle between 50 and 65 percent of the labels and other labeling being reviewed by the Agency. Many of these firms are one-person operations, although a few are connected with trade associations as a service department for their members.

Changes to the prior label approval system as proposed in this document could significantly affect these firms. Labeling consultants may have to adapt their services to fit the amended system in order to continue their function. For this reason, the Department particularly invites comments on the potential costs to be imposed upon these labeling consultants if the proposal is adopted.

List of Subjects in 9 CFR

Part 306

Appeals, Meat inspection.

Part 317

Food labeling, Meat inspection.

Part 381

Appeals, Food labeling, Poultry.

Accordingly, the meat and poultry products inspection regulations would be revised as follows:

1. The authority citation for Parts 306 and 317 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 564, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1171(b), unless otherwise noted.

PART 306—ASSIGNMENT AND AUTHORITIES OF PROGRAM EMPLOYEES

2. The text of § 306.5 (9 CFR 306.5) would be revised as follows:

§ 306.5 Appeals.

Any appeal from a decision of any Program employee shall be made to his immediate supervisor having jurisdiction over the subject matter of the appeal, except as otherwise provided in the applicable rules of practice and denial of a labeling application by the inspector-in-charge shall not constitute a basis for an appeal under this section.

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

3. The section title and paragraphs (a) and (d) of § 317.4 (9 CFR 317.4(a) and (d)) would be revised and paragraph (e) would be added as follows:

§ 317.4 Labeling to be approved by the Administrator.

(a) No labeling shall be used on any product until it has been approved in its final form by the Administrator. For the

convenience of the establishment, sketches or proofs of new labeling may be submitted in triplicate to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Washington, D.C., for approval, and the preparation of final labeling deferred until such approval is obtained. "Sketch" labeling is a printer's proof or other comparable copy which clearly shows all labeling material size, location, and some indication of final color. All final labeling shall be submitted in triplicate to the Standards and Labeling Division for approval, except where such approval may be obtained from the inspector-in-charge as specified in this section or where generic approval is granted as specified in § 317.5. Any establishment that wishes to submit any labeling to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Washington, D.C., for approval may do so.

* * * * *

(d) Application may be made, consistent with the requirements of this section, for a temporary approval for the use of a label or other labeling that may otherwise be deemed deficient in some particular. Temporary approvals may be granted for a period not to exceed 180 days, and may not be extended. Such an approval may be granted if (1) the proposed labeling would not misrepresent the product; (2) use of the labeling would not present any potential health, safety, or dietary problems to the consumer; (3) denial of the request would create undue economic hardship; (4) an unfair competitive advantage would not result from the granting of the temporary approval.

(e) Inspector-in-charge may approve labeling in certain cases.

(1) At the request of the official establishment, the inspector-in-charge may approve labeling listed in paragraph (e)(3) of this section which has not been submitted to the Standards and Labeling Division: *Provided*, That the labeling is so used as not to be false or misleading, and that all approvals are issued in writing in response to applications, and that copies of the approved applications are forwarded for filing and possible audit by the inspector-in-charge 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.

(2) Denial of a labeling application by the inspector-in-charge precludes use of the labeling unless and until

authorization is obtained under paragraph (a) of this section.

(3) The inspector-in-charge may approve: (i) Final labeling, if the Standards and Labeling Division has already approved the labeling in sketch form and the final labeling is prepared without modification or with only minor modification as described in paragraph (e)(3)(iii) or as described in § 317.5;

(ii) Labeling for single ingredient products (such as steak or lamb chops) which do not contain quality claims (such as "blue ribbon" or "choice"), negative claims (such as "no sugar added"), geographical claims, nutritional claims, guarantees, or foreign language;

(iii) Any label or other labeling which has already been approved but which contains one or more minor modifications, as set forth in this subparagraph, provided, in the opinion of the inspector-in-charge, all mandatory information remains sufficiently prominent and the labeling as modified is so used as not to be false or misleading;

(A) Brand name changes: *Provided* there are no design changes, the brand name does not use a term that connotes quality or other product characteristics, the brand name has no geographic significance, and the brand name does not affect the name of the product;

(B) The deletion of the word "new" on new product labeling;

(C) The addition, deletion, or amendment of handling instructions: *Provided*, the change is consistent with § 317.2 of this subchapter;

(D) Changes reflecting a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown on the label: *Provided*, That the change in quantity or ingredients complies with any minimum or maximum limits for the use of such ingredients prescribed in Parts 318 and 319 of this subchapter;

(E) Changes in the color of the labeling: *Provided*, the inspector-in-charge is satisfied that sufficient contrast and legibility remain; or

(F) The addition, deletion, or substitution of the official USDA grade shield;

(iv) Labeling for containers of meat and meat food products sold under contract specifications to Federal Government agencies, when such product is not offered for sale to the general public: *Provided*, That the contract specifications include specific requirements with respect to labeling, and are made available to the inspector-in-charge;

(v) Labels for shipping containers which contain fully labeled immediate containers;

(vi) Labeling for products not intended for human food, provided they comply with Part 325 of this subchapter;

(vii) Meat inspection legends, which comply with Parts 312 and 316 of this subchapter; or

(viii) Meat carcass ink brands, and meat food product ink and burning brands, which comply with Parts 312 and 316 of this subchapter.

4. The title and contents of § 317.5 (9 CFR 317.5) would be revised to read as follows:

§ 317.5 Generically approved labeling.

(a) Labeling which is generically approved under paragraph (b) of this section is approved for use without additional authorization from Agency personnel, provided the labeling shows all mandatory information in a sufficiently prominent manner and is not otherwise false or misleading in any particular. Any determination by the inspector-in-charge that labeling being used in accordance with paragraph (b) of this section is false or misleading or that labeling alleged by an establishment to be approved under paragraph (b) of this section which the inspector-in-charge determines is not so approved, shall preclude the use of the labeling and said determination shall remain in effect unless and until an alternative decision is made by the Standards and Labeling Division. A copy of any labeling to be used in accordance with paragraph (b) of this section shall be supplied to the inspector-in-charge prior to its use.

(b) Labeling which has previously been approved but which contains the following modifications is generically approved and may be used in conformity with the requirements of paragraph (a) of this section:

(1) All features of the labeling are proportionately enlarged or reduced, provided that all minimum size requirements specified in applicable regulations are met and the labeling is legible;

(2) There is substitution of such abbreviations as "lb." for "pound," or "oz." for "ounce," or the word "pound" or "ounce" is substituted for the abbreviation;

(3) A master or stock label has been approved from which the name and address of the distributor are omitted and such name and address are applied before being used (in such case, the words "prepared for" or similar statement must be shown together with the blank space reserved for the insertion of the name and address when such labels are offered for approval);

(4) During holiday seasons, wrappers or other covers bearing floral or foliage

designs or illustrations of rabbits, chicks, fireworks, or other emblematic holiday designs are used with approved labeling (the use of such designs will not make necessary the application of labeling not otherwise required);

(5) There is a change in arrangement of directions pertaining to the opening of containers or the serving of the product;

(6) The addition, deletion, or amendment of a coupon, cents-off statement, cooking instructions, packer product code information, or UPC product code information;

(7) Any change in the name or address of the packer, manufacturer, or distributor that appears in the signature line;

(8) Any change in the net weight or size: *Provided*, That the net weight size complies with § 317.2 of this subchapter;

(9) The addition, deletion, or amendment of recipe suggestions for the product;

(10) Any changes in punctuation; or

(11) Newly assigned or revised establishment numbers for a particular establishment for which use of the labeling has been approved by SLD or the inspector-in-charge assigned to that establishment.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

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

Authority: Sec. 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 Pub. L. 91-224 and by other laws (33 U.S.C. 1171(b)) unless otherwise noted.

6. The text of § 381.35 (9 CFR 381.35) would be revised as follows:

§ 381.35 Appeal inspections; how made

Any person receiving inspection service may, if dissatisfied with any decision of an inspection relating to any inspection, file an appeal from such decision: *Provided*, That such appeal is filed within 48 hours from the time the decision was made. Any such appeal from a decision of an inspector shall be made to his immediate superior having jurisdiction over the subject matter of the appeal, and such superior shall determine whether the inspector's decision was correct. Review of such appeal determination, when requested, shall be made by the immediate superior of the employee of the Department making the appeal determination. The cost of any such appeal shall be borne by the appellant if the Administrator

determines that the appeal is frivolous. The charges for such frivolous appeal shall be at the rate of \$9.28 per hour for the time required to make the appeal inspection. The poultry or poultry products involved in any appeal shall be identified by U.S. retained tags and segregated in a manner approved by the inspector pending completion of an appeal inspection. Provided further, That denial of a labeling application by the inspector-in-charge shall not constitute a basis for an appeal under this section.

7. The section title and the text of § 381.132 (9 CFR 381.132) would be revised as follows:

§ 381.132 Labeling to be approved by the Administrator.

(a) No labeling shall be used on any product until it has been approved in its final form by the Administrator. For the convenience of the establishment, sketches or proofs of new labeling may be submitted in triplicate to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Washington, D.C., for approval, and the preparation of final labeling deferred until such approval is obtained. "Sketch" labeling is a printer's proof or other comparable copy which clearly shows all labeling material, size, location, and some indication of final color. All final labeling shall be submitted in triplicate to the Standards and Labeling Division for approval, except where such approval may be obtained from the inspector-in-charge as specified in this section or where generic approval is granted as specified in § 381.134 of this subchapter. Any establishment that wishes to submit any labeling to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Washington, D.C., for approval may do so.

(b) Application may be made, consistent with the requirements of this section, for a temporary approval for the use of a label or other labeling that may otherwise be deemed deficient in some particular. Temporary approvals may be granted for a period not to exceed 180 days, and may not be extended. Such an approval may be granted if (1) the proposed labeling would not misrepresent the product; (2) use of the labeling would not present any potential health, safety, or dietary problems to the consumer; (3) denial of the request would create undue economic hardship; and (4) an unfair competitive advantage would not result from the granting of the temporary approval.

(c) Inspector-in-charge may approve labeling in certain cases. (1) At the request of the official establishment, the

inspector-in-charge may approve labeling listed in subparagraph (3) of this section which has not been submitted to the Standards and Labeling Division: *Provided*, That the labeling is so used as not to be false or misleading, and that all approvals are issued in writing in response to applications, and that copies of the approved applications are forwarded for filing and possible audit by the inspector-in-charge 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.

(2) Denial of a labeling application by the inspector-in-charge precludes use of the labeling unless and until authorization is obtained under paragraph (a) of this section.

(3) The inspector-in-charge may approve:

(i) Final labeling, if the Standards and Labeling Division has already approved the labeling in sketch or proof form and the final labeling is prepared without modification or with only minor modification as described in paragraph (c)(3)(iii) of this section or as described in § 381.134 of this subpart;

(ii) Labeling for single ingredient products (such as chicken or turkey thighs) which do not contain quality claims (such as "blue ribbon" or "choice"), negative claims (such as "no sugar added"), geographical claims, nutritional claims, guarantees, or foreign language;

(iii) Any label or other labeling which has already been approved but which contains one or more minor modifications, as described below, provided, in the opinion of the inspector-in-charge, all mandatory information remains sufficiently prominent and the labeling as modified is so used as not to be false or misleading:

(A) Brand name changes: *Provided*, there are no design changes, the brand name does not use a term that connotes quality or other product characteristics, the brand name has no geographic significance, and the brand name does not affect the name of the product;

(B) The deletion of the word "new" on new product labeling;

(C) The addition, deletion, or amendment of handling instructions: *Provided*, the change is consistent with § 381.125 of this subchapter; or

(D) Changes reflecting a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown on the label: *Provided*, That the change in quantity or ingredients complies with any minimum or maximum limits for the use of such ingredients prescribed in § 381.147;

(E) Changes in the color of the labeling: *Provided* the inspector-in-charge is satisfied that sufficient contrast and legibility remain;

(F) The addition, deletion, or substitution of the official USDA grade shield;

(iv) Labeling for containers of poultry products sold under contract specifications to Federal governmental agencies when such product is not offered for sale to the general public: *Provided*, That the contract specifications include specific requirements with respect to labeling, and are made available to the inspector-in-charge;

(v) Labels for shipping containers which contain fully labeled immediate containers. Such labels shall comply with § 381.127;

(vi) Labeling for products of poultry not intended for human food if they comply with § 381.152(c), and labels for poultry heads and feet for export for processing as human food if they comply with § 381.190(b);

(vii) Poultry inspection legends, if they comply with Subpart M of this part;

(viii) Inserts, tags, liners, pasters, and like devices containing printed or graphic matter and for use on, or to be placed within, containers and coverings of product provided such devices contain no reference to product and bear no misleading feature;

8. The title and contents of § 381.134 (9 CFR 381.134) would be revised to read as follows:

§ 381.134 Generically approved labeling.

(a) Labeling which is generically approved under paragraph (b) of this section is approved for use without additional authorization from Agency personnel, provided the labeling shows all mandatory information in a sufficiently prominent manner and is not otherwise false or misleading in any particular. Any determination by the inspector-in-charge that labeling being used in accordance with paragraph (b) of this section is false or misleading or that labeling alleged by an establishment to be approved under paragraph (b) of this section which the inspector-in-charge determines is not so approved, shall preclude the use of the labeling and said determination shall remain in effect unless and until an alternative decision is made by the Standards and Labeling Division. A copy of any labeling to be used in accordance with paragraph (b) of this section shall be supplied to the inspector-in-charge prior to its use.

(b) Labeling which has previously been approved but which contains the

following modifications is generically approved and may be used in conformity with the requirements of paragraph (a) of this section:

(1) All features of the label are proportionately enlarged or reduced, provided that all minimum size requirements specified in applicable regulations are met and the labeling is legible;

(2) There is substitution of such abbreviations as "lb." for "pound," or "oz." for "ounce," or the word "pound" or "ounce" is substituted for the abbreviation;

(3) A master or stock label has been approved from which the name and address of the distributor are omitted and such name and address are applied before being used (in such case, the words "prepared for" or similar statement must be shown together with the blank space reserved for the insertion of the name and address when such labels are offered for approval);

(4) During holiday seasons, wrappers or other covers bearing floral or foliage designs or illustrations of rabbits, chicks, fireworks, or other emblematic holiday designs are used with approved labeling (the use of such design will not make necessary the application of labeling not otherwise required);

(5) There is a change in arrangement of directions pertaining to the opening of cans or the serving of the product;

(6) The addition, deletion, or amendment of a coupon, a cents-off statement, cooking instructions, packer product code information, or UPC product code information;

(7) Any change in the name or address of the packer, manufacturer, or distributor that appears in the signature line;

(8) Any change in the net weight or size: *Provided*, the net weight size complies with § 381.121 of this subchapter;

(9) The addition, deletion, or amendment of recipe suggestions for the product;

(10) Any changes in punctuation; or

(11) Newly assigned or revised establishment numbers for a particular establishment for which use of the labeling has been approved by SLD or the inspector-in-charge assigned to that establishment.

§ 381.135 [Reserved]

9. Section 381.135 (9 CFR 381.135) would be removed and the section number would be reserved.

Done at Washington, D.C., on May 12, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-13804 Filed 5-19-82; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 715, 780, 816, and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Use of Explosives; Extension of Public Comment Period

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

ACTION: Notice of extension of public comment period.

SUMMARY: On March 24, 1982 (47 FR 12760), OSM published proposed rules for public comment which would amend existing rules in 30 CFR Chapter VII relating to the use of explosives. Since the publication OSM has received a number of requests to extend the public comment period. In order to ensure all interested persons are afforded an adequate opportunity to comment, OSM is extending the comment period.

DATES: Written Comments: The comment period on the proposed rules will extend until 5:00 p.m. (Eastern time) on June 14, 1982.

Public Meetings: Scheduled on request only.

ADDRESSES: *Written Comments:*

Hand-delivered to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.06), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.06), Room 5315L, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Public Meetings: OSM offices in Washington, D.C.; Charleston, West Virginia; Knoxville, Tennessee; Indianapolis, Indiana; Pittsburgh, Pennsylvania; and Denver, Colorado.

FOR FURTHER INFORMATION CONTACT:

Jerry R. Ennis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202-343-7881.

Public Meetings: Jose del Rio, 202-343-4022.

SUPPLEMENTARY INFORMATION: Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "ADDRESSES"). Comments received after the time indicated under "DATES" or at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "ADDRESSES" by contracting the person listed under "FOR FURTHER INFORMATION CONTACT."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L Street). A written summary of each public meeting will be made part of the Administrative Record.

List of Subjects

30 CFR Part 715

Coal mining, Environmental protection, Surface mining, Underground mining.

30 CFR Part 780

Coal mining, Reporting requirements, Surface mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting requirements, Underground mining.

Dated: May 18, 1982.

Dean Hunt,

Assistant Director, Office of Surface Mining.

[FR Doc. 82-14005 Filed 5-20-82; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Parts 779, 783, 785, and 823

Surface Coal Mining and Reclamation; Permanent Program Regulations; Prime Farmlands; Correction

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

ACTION: Proposed rulemaking—correction.

SUMMARY: The notice of proposed rulemaking regarding the special permanent program permit application and performance standard rules for operations on prime farmland, published in the *Federal Register*, 47 FR 19076-19084 on May 3, 1982 inadvertently scheduled the public hearing at Springfield, Illinois for the wrong date. **DATES:** The date for the public hearing in Springfield, Illinois on the above parts will be June 23, 1982.

FOR FURTHER INFORMATION CONTACT: Donald F. Smith, Division of Technical Assistance, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202-343-5954.

Dated: May 17, 1982.

Dean Hunt,

Assistant Director, Office of Surface Mining.

[FR Doc. 82-14006 Filed 5-20-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Florida; Bubble Action for General Portland, Inc., in Tampa

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On August 11, 1981, the State of Florida submitted as a revision to their State Implementation Plan (SIP) an alternative emission control plan (bubble) for the General Portland, Inc. facility in Tampa, Florida. Under the revision, the facility would be allowed to increase the particulate emission rates of one kiln and one clinker cooler. The increased particulate emissions would be offset by a complete and permanent shutdown of two kilns, two clinker coolers, and supplemental storage and transfer sources. The State adopted emission limitations that apply to the General Portland, Inc., facility on April 7, 1981, as part of the State's SIP revision for nonattainment areas. The State has not yet submitted a complete control strategy for attaining secondary standards for particulate matter.

EPA is today proposing to approve the bubble for the General Portland, Inc. facility. EPA is also proposing to approve the portion of Florida's nonattainment SIP which limits particulate emissions from Portland cement plants as reasonably available control technology (RACT) for the

General Portland facility. The General Portland bubble is consistent with EPA's new Emissions Trading Policy Statement, which allows the use of source shutdowns in bubbles and which allows bubbles in areas that lack attainment demonstrations for secondary standards.

DATES: To be considered, written comments must be submitted on or before June 21, 1982.

ADDRESSES: Written comments should be addressed to Denise W. Pack of EPA, Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by Florida may be examined during normal business hours at the following locations:

Public Information Reference Unit,
Library Systems Branch,
Environmental Protection Agency, 401
M Street SW., Washington, D.C. 20460
Library, Environmental Protection
Agency, Region IV, 345 Courtland
Street NE., Atlanta, Georgia 30365
Florida Department of Environmental
Regulations, Bureau of Air Quality
Management, Twin Towers Office
Building, 2600 Blairstone Road,
Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Ms. Denise W. Pack, EPA Region IV, at the above listed address, telephone number 404/881-3286 (FTS-257-3286).

SUPPLEMENTARY INFORMATION: On April 7, 1981, the Florida Department of Environmental Regulation (DER) adopted the current emission limitations for General Portland as part of Florida's revised SIP for nonattainment areas. On August 11, 1981, Florida submitted an alternative emission control plan (bubble) for the General Portland facility. The bubble involves particulate emissions from Kilns Nos. 4, 5, 6, and Clinker Coolers Nos. 4, 5, and 6. Each of these emissions points has been permitted according to the applicable emission limitation of Florida's SIP. Under the bubble, the No. 6 Clinker Cooler and Kiln will operate at an emission limit higher than that permitted under the current emission limitations. Operations at the Nos. 4 and 5 Kilns and Clinker Coolers will be permanently discontinued.

Specifically, particulate emissions from Kiln No. 6 will increase from 74 pounds per hour to 95 pounds per hour when determined by EPA reference method 5. On the Kiln, the 95 pounds per hour emission limit will be verified by a stack test utilizing EPA test method 5. An additional test will also be required with an emission limit of 40 pounds per hour measured by EPA method 17. The existing procedure only requires EPA

method 5 for both kilns and coolers. The reason for requiring the additional test is to measure the amount of particulates generated as a secondary formation. Allowable particulate emissions from Clinker Cooler No. 6 will increase from 20 pounds per hour to 45 pounds per hour. These emission increases will be offset by the discontinued use of Kilns Nos. 4 and 5, for which the current emission limit is 50 pounds per hour, and by the discontinued use of Clinker Coolers Nos. 4 and 5, for which the current emission limit is 7.5 pounds per hour each. The ambient air quality impact of the revised emission limitations was evaluated using the CRSTER model.

In sum, air quality improvements are projected as a result of the proposed changes. The use of this alternative set of emission limitations will result in a net decrease in emissions of particulates as compared to the current limitations. Also, the company will cease operation of the supplemental storage and transfer systems for the Nos. 4 and 5 Kilns. General Portland is not seeking credit for eliminating the fugitive particulates generated at these supplemental systems.

Action: EPA is today proposing to approve: (1) Florida's current emissions limitations, adopted by DER on April 7, 1981, as reasonably available control technology (RACT) for the General Portland facility; and (2) the General Portland bubble.

The General Portland bubble is fully approvable under EPA's new Emissions Trading Policy Statement. 47 FR 15076 (April 7, 1982). The bubble plan, located at Florida Administrative Code 17-2.13(3)(a)(3), contains enforceable and quantifiable emission limitations. The emission reductions are permanent because they result from a source shutdown. Using the CRSTER model, an EPA-approved model, General Portland has demonstrated that the bubble will result in an ambient air quality impact equivalent to, if not less than, the current emission limitations.

The General Portland bubble implements two new provisions of EPA's Emissions Trading Policy Statement. First, the General Portland bubble uses emission reduction credits (ERCs) created by a source shutdown. EPA has already approved the use of shutdown credits in a Union Carbide Corporation bubble in Texas City, Texas (47 FR 21533, May 19, 1982). Second, the General Portland facility is located in an area that is designated as nonattainment for the secondary national ambient air quality standards (NAAQS) for particulate matter. Although a SIP

demonstrating attainment and maintenance is being developed, the area currently lacks a demonstration of attainment of the secondary particulate standards. The RACT limitations being proposed for approval today comprise one portion of Florida's future attainment demonstration.

Under EPA's new Emissions Trading Policy Statement, a source may use a bubble in limited circumstances when it is located in a nonattainment area lacking an attainment demonstration. In areas that are only nonattainment for secondary standards, a source can create surplus ERCs in either of two ways: (1) the source can use actual emissions as the baseline for trading increases and decreases in the bubble; or (2) the source can set RACT as the baseline. RACT can either be defined in the SIP or by agreement with the State and EPA. The General Portland bubble uses a RACT baseline, as adopted by DER and proposed for approval today.

States that exercise the option of using bubbles in areas where the applicable SIP fails to demonstrate attainment of ambient air quality standards are not relieved of their duty under the Clean Air Act to attain these standards by the statutory deadline. Thus, sources that use a bubble in these circumstances may be required to further reduce their total emissions if the State determines that attainment of ambient air quality standards, as consistent with reasonable further progress, cannot be achieved without such supplementary reductions. However, EPA encourages States not to reexamine agreed-upon emission levels where sources, such as General Portland, voluntarily agreed to RACT levels, unless it is necessary to satisfy the Clean Air Act.

Pursuant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified (46 FR 8709) that the proposed rule will not if promulgated have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements. In addition, it applies only to a single entity.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it imposes no new burden on sources. The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: October 5, 1981.

John A. Little,

Acting Regional Administrator.

[FR Doc. 82-13928 Filed 5-20-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 761

[OPTS-62024; TSH-FRL 2131-2]

Polychlorinated Biphenyls; Incorporations by Reference Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Certain test methods of the American Society for Testing and Materials (ASTM) that are incorporated by reference in EPA's Polychlorinated Biphenyls (PCB's) regulations have been revised. EPA is proposing to adopt these revisions as the new methodology to be used in meeting the requirements of these regulations.

DATES: Comments on this proposed amendment should be submitted by June 21, 1982.

ADDRESS: Address written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

EPA requests that written comments be submitted in triplicate. Comments should include the docket number OPTS-62024. Comments on this proposed amendment will be available for review from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays, in Rm. E-107, Environmental Protection Agency, 401 M St., SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the Federal Register complete incorporation by reference citations are being added to 40 CFR Part 761. The American Society for

Testing and Materials (ASTM) has revised nine of these tests. The revised tests are:

| Old | New |
|---------------|---------------|
| ASTM D93-77 | ASTM D93-80 |
| ASTM D482-74 | ASTM D482-80 |
| ASTM D524-76 | ASTM D524-81 |
| ASTM D808-63 | ASTM D808-81 |
| ASTM D923-75 | ASTM D923-81 |
| ASTM D1266-70 | ASTM D1266-80 |
| ASTM D2158-65 | ASTM D2158-80 |
| ASTM D2784-70 | ASTM D2784-80 |
| ASTM D3278-73 | ASTM D3278-78 |

EPA invites comment on the revised material, copies of which are available from the Document Control Officer (see ADDRESS reference above).

(Sec. 6, 90 Stat. 2020, (15 U.S.C. 2065))

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements.

Dated: May 14, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

PART 761—POLYCHLORINATED BIPHENYLS (PCBs) MANUFACTURING, PROCESSING, DISTRIBUTION IN COMMERCE, AND USE PROHIBITIONS

Therefore, it is proposed that Part 761 of Chapter I of Title 40, Subchapter R, be amended as follows:

1. In § 761.60, paragraph (a)(3)(iii)(B)(6) and paragraph (g)(1)(ii) and (2)(ii) are revised as follows:

§ 761.60 Disposal requirements.

- (a) * * *
- (3) * * *
- (iii) * * *
- (B) * * *

(6) The concentration of PCBs and of any other chlorinated hydrocarbon in the waste and the results of analyses using the American Society of Testing and Materials (ASTM) methods as follows: carbon and hydrogen content using ASTM D-3178-73 (reapproved 1979), nitrogen content using ASTM E-258-67, sulfur content using ASTM D-2784-80, D-1266-80, or D-129-64, chlorine content using ASTM D-808-81, water and sediment content using either ASTM D-2709-68 or D-1796-68, ash content using D-482-80, calorific value using ASTM D-240-76 (reapproved 1980), carbon residue using either ASTM D-2158-80 or D-524-81, and flash point using ASTM D-93-80.

- (g) * * *
- (1) * * *

(ii) For purposes of complying with the marking and disposal requirements, representative samples may be taken from either the common containers or the individual transformers to determine the PCB concentration, *Except that* if any PCBs at a concentration of 500 ppm or greater have been added to the container then the total container contents must be considered as having a PCB concentration of 500 ppm or greater for purposes of complying with the disposal requirements of this subpart. For purposes of this paragraph, representative samples of mineral oil dielectric fluid are either samples taken in accordance with American Society of Testing and Materials method D-923-81 or samples taken from a container that has been thoroughly mixed in a manner such that any PCBs in the container are uniformly distributed throughout the liquid in the container.

(2) * * *

(ii) For purposes of complying with the marking and disposal requirements, representative samples may be taken from either the common container or individual containers to determine the PCB concentration *Except that* if any PCBs at a concentration of 500 ppm or greater have been added to the container then the total container contents must be considered as having a PCB concentration of 500 ppm or greater for purposes of complying with the disposal requirements of this subpart. For purposes of this subparagraph, representative samples of waste oil are either samples taken in accordance with American Society of Testing and Materials D-923-81 method or samples taken from a container that has been thoroughly mixed in a manner such that any PCBs in the container are uniformly distributed throughout the liquid in the container.

2. In § 761.75, paragraph (b)(8)(iii) is revised to read as follows:

§ 761.75 Chemical waste landfills.

* * * * *

(b) * * *

(8) * * *

(iii) Ignitable wastes shall not be disposed of in chemical waste landfills. Liquid ignitable wastes are wastes that have a flash point less than 60 degrees C (140 degrees F) as determined by the following method or an equivalent method: Flash point of liquids shall be determined by a Pensky-Martens Closed Cup Tester, using the protocol specified in ASTM Standard D-93-80, or the Setaflash Closed Tester using the

protocol specified in ASTM Standard D-3278-78.

[FR Doc. 82-13970 Filed 5-20-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-261; RM-4079]

FM Broadcast Station in Soldotna, Alaska; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of a Class A FM channel to Soldotna, Alaska, in response to a petition filed by Peninsula Communications, Inc. The proposed assignment could provide a first FM broadcast service to Soldotna.

DATES: Comments must be filed on or before July 1, 1982, and reply comments on or before July 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Soldotna, Alaska), BC Docket No. 82-261, RM-4079.

Adopted: May 10, 1982.

Released: May 17, 1982.

1. The Commission herein considers a petition for rule making filed March 10, 1982, by Peninsula Communications, Inc. ("petitioner") proposing the assignment of FM Channel 269A to Soldotna, Alaska, as that community's first FM channel.

2. Soldotna (population 2,320),¹ in the Kenai Peninsula Borough (population 25,282) of Kenai-Cook Inlet County, is located approximately 96 kilometers (60 miles) southwest of Anchorage, Alaska. It is served by a daytime-only AM station (KSRM).

3. Petitioner states that the economy is based on the oil and gas industry, sport fishing and tourism. It further states that Soldotna is a growing commercial center served by one daily newspaper, *The Peninsula Clarion*.

¹ Population figures are taken from the 1980 U.S. Census.

4. A site restriction of 2.2 miles southwest of Soldotna must be imposed to meet the mileage separation for existing Station KGOT (Channel 267), Anchorage, Alaska.

5. Since the proposed assignment could provide Soldotna with its first local FM broadcast service, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the rules, with regard to the following community:

| City | Channel No. | |
|------------------|-------------|----------|
| | Present | Proposed |
| Soldotna, Alaska | | 269A |

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

7. Interested parties may file comments on or before July 1, 1982, and reply comments on or before July 19, 1982, and are advised to read the Appendix below for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment

which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 82-261, RM-4079]

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments;

Service. Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply

comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-14000 Filed 5-20-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-262; RM-4066]

FM Broadcast Station in Kingman, Ariz.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposed the substitution of Channel 297 for Channel 224A at Kingman, Arizona, and modification of the license for Station KZZZ(FM) accordingly, in response to a petition filed by Mohave Sun Broadcasting.

DATES: Comments must be filed on or before July 1, 1982, and reply comments on or before July 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Kingman, Arizona), BC Docket No. 82-262, RM-4066.

Adopted: May 10, 1982.

Released: May 17, 1982.

1. A petition for rule making was filed on February 19, 1982, by Mohave Sun Broadcasting ("petitioner"), proposing to substitute Class C FM Channel 297 for Channel 224A at Kingman, Arizona, and modify the license for Station KZZZ(FM) (Channel 224A) to specify operation on Channel 297.

2. Kingman (population 9,257),¹ seat of Mohave County (population 55,693), is located approximately 264 kilometers (165 miles) northwest of Phoenix. It is served by fulltime AM Station KAAA and FM Station KZZZ (Channel 224A).

3. In support of the proposal, petitioner contends that Kingman has experienced an increase in its population of approximately 26 percent in the past decade. The nearest community of appreciable size (Needles, Arizona) is said to be some 40 miles away. Because of its isolation from major population centers, Kingman has become the regional trade and service center for ranchers, tourists and residents of the outlying communities. Petitioner adds that a Class C facility would substantially increase its coverage area, thereby providing service to the areas surrounding Kingman, which are beyond the primary service contour of a Class A station.

4. The information submitted by petitioner indicates that the assignment of Channel 297 to Kingman will cause preclusion on Channels 295, 296A, 297, 298, 299 and 300. The study was based on communities with a population in excess of 2,000. Petitioner lists twenty-one communities precluded by the proposal, eight of which have no FM service. A list of alternative available channels for these communities was also provided.

5. In accordance with our established policy, we shall also propose to modify the license of Station KZZZ(FM), Channel 224A, to specify operation on Channel 297. However, should another party indicate an interest in the Class C assignment, the modification could not be implemented. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

6. Mexican concurrence in the proposal must be obtained.

7. In view of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, as it pertains to Kingman, Arizona, as follows:

| City | Channel No. | |
|--------------------|-------------|----------|
| | Present | Proposed |
| Kingman, Ariz..... | 224A | 297 |

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

¹Population figures are taken from the 1980 U.S. Census.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

9. Interested parties may file comments on or before July 1, 1982, and reply comments on or before July 19, 1982, and are advised to read the Appendix below for the proper procedures.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 82-262, RM-4066]

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 3.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which

this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-14001 Filed 5-20-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-263; RM-4069]

FM Broadcast Station in Chinook, Montana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes a first FM assignment to Chinook, Montana, in response to a petition filed by Rick D. Davies.

DATES: Comments must be filed on or before July 1, 1982, and reply comments on or before July 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Chinook, Montana), BC Docket No. 82-263, RM-4069.

Adopted: May 10, 1982

Released: May 17, 1982.

1. The Commission herein considers a petition for rule making filed February 26, 1982, by Rick D. Davies ("petitioner"), seeking the assignment of Class C Channel 267 to Chinook, Montana, as its first FM channel. Petitioner stated his intention to apply for the channel, if assigned.

2. Chinook (population 1,660),¹ seat of Blaine County (population 6,990), is located approximately 200 kilometers (125 miles) northeast of Great Falls, Montana. It is without local broadcast service.

3. Petitioner asserts that Chinook's principal industries are farming and ranching. A nearby natural gas field and oil exploration are considered as possible contributors to the economy. Chinook is a somewhat isolated community, as the nearest large city (Harve, population 10,500), is said to be more than 20 miles away. Davies claims that a wide coverage area station is needed to meet the demands of the sparsely populated area and provide a sufficient economic base for financial viability.

4. Petitioner's engineering study indicates that the proposed assignment will preclude thirteen communities on

¹ Population figures are taken from the 1980 U.S. Census.

Channels 264, 265A, 266, 267, 268, 269A, and 270, five of which have no local FM service.² Alternate channels are available to each of the precluded communities. Petitioner states that a portion of the area is already precluded by the recent assignment of Channel 266 to Helena, Montana (BC Docket No. 80-523), 46 FR 43169, published August 27, 1981.

5. In the absence of a *Roanoke Rapids/Anamosa*³ showing, Davies stated that the proposed assignment of Channel 267 to Chinook will provide service to a wide area, presently without FM service and nighttime AM service. Due to the isolated location of this community, it would appear that large unserved and underserved areas could indeed receive the proposed FM station.

6. Since Chinook, Montana, is located within 420 kilometers (250 miles) of the U.S.-Canadian border, concurrence from the Canadian Government must be obtained.

7. In view of the first local broadcast service that could be provided to Chinook, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the rules, as it relates to the following community:

| City | Channel No. | |
|------------------|-------------|----------|
| | Present | Proposed |
| Chinook, Montana | | 267 |

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

9. Interested parties may file comments on or before July 1, 1982, and reply comments on or before July 19, 1982, and are advised to read the Appendix below for the proper procedures.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do

Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comments which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 82-263 RM-4009]

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-14002 Filed 5-20-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-264; RM-4064]

FM Broadcast Station in Watertown, New York; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes a second FM assignment to Watertown, New York, in response to a petition filed by 790 Communications Corporation.

DATES: Comments must be filed on or before July 1, 1982, and reply comments on or before July 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

² Roundup, Fort Benton, Harlowton, Conrad and Harlem, Montana.

³ See *Roanoke Rapids, North Carolina*, 9 F.C.C. 2d 672 (1967); *Anamosa, Iowa*, 46 F.C.C. 2d 520 (1974).

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), *Table of Assignments, FM Broadcast Stations*. (Watertown, New York), BC Docket No. 82-264. RM-4064.

Adopted: May 10, 1982.

Released: May 17, 1982.

1. A petition for rule making was filed on February 16, 1982, by 790 Communications Corporation ("petitioner"),¹ proposing the assignment of Channel 228A to Watertown, New York, as its second FM assignment. Petitioner stated its intention to apply for the channel, if assigned.

2. Watertown (population 2,786),² seat of Jefferson County (population 88,151), is located approximately 104 kilometers (65 miles) north of Syracuse, New York. It is served by fulltime AM Stations WATN, WOTT and WTNY, and FM Station WNCQ (Channel 248).

3. In support of the proposal, the petitioner asserts that Watertown has a diversified economic base. Its primary source of revenue is a shipping center for industry and for the large agricultural interest in Watertown. Tourist trade and several manufacturing firms are also said to be supportive of the economy. It is the petitioner's contention that a second FM station at Watertown would provide its residents with an opportunity for additional local oriented programming and provide expanded services to the many tourists who make substantial contributions to the economy.

4. According to the information submitted by the petitioner, the assignment of Channel 228A to Watertown will cause preclusion on the co-channel only. However, it did not list the communities affected by the proposal. It is requested to do so in comments to this proposal, listing the communities with a population greater than 1,000 precluded by the proposed assignment, and indicate whether alternate channels are available to those communities.

5. The assignment of Channel 228A to Watertown, New York, would result in an intermixture of a Class A and a Class C channel (248). The Commission has a policy permitting such intermixture where no other Class C channels are available for assignment and where, as here, the petitioner is willing to apply for the Class A channel in spite of the unfavorable competitive situation.

¹ 790 Communications Corporation is the licensee of AM Station WTNY, Watertown, New York.

² Population figures are taken from the 1980 U.S. Census.

Yakima, Washington, 42 F.C.C. 2d 548, 550 (1973); *Key West, Florida*, 45 F.C.C. 2d 142, 145 (1974).

6. Channel 228A can be assigned to Watertown in conformity with the minimum distance separation requirements provided the transmitter site is located approximately 6 miles northwest of the city.³ Canada has given its preliminary consent to a special negotiated short spacing in the assignment of Channel 228A to Westertown.

7. In view of the fact that the proposal could provide a second local broadcast service to Watertown, comments are invited on the proposal to amend the FM Table of Assignments, § 73.202(b) of the rules as follows:

| City | Channel No. | |
|--------------------------|-------------|-----------|
| | Present | Proposed |
| Watertown, New York..... | 248 | 228A, 248 |

8. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

9. Interested parties may file comments on or before July 1, 1982, and reply comments on or before July 19, 1982, and are advised to read the Appendix below for the proper procedures.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rulemaking proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a

³ This restriction is necessary to avoid short spacing to Channel 228A at Remsen, New York (construction permit issued).

message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission. (Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

Roderick K. Porter,
Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 82-264 RM-4064]

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations,

interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-14003 Filed 5-19-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register

Vol. 47, No. 99

Friday, May 21, 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.

ACTION

Mini-Grants; Proposed Revision of Guidelines for Mini-Grants

SUMMARY: The following notice sets forth a proposed revision to the guidelines under which applications for Mini-Grants will be accepted. This revision, when published in final, will replace the current Mini-Grant Guidelines which were published in the Federal Register, Volume 46, No. 19 on Thursday, January 29, 1981. This Notice describes the program purpose, applicant eligibility, grant scope, application procedures and criteria for Mini-Grants. Both those mini-grants funded by the ACTION agency and those mini-grants funded through either non-federal contributions or Federal Inter-Agency Agreements are covered.

DATE: Written comments should be submitted no later than June 21, 1982, to Beverly Poitras Fuentes, OVL, ACTION, 806 Connecticut Avenue, N.W., Room 907, Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: Office of Volunteer Liaison (OVL), ACTION, Room M-907, 806 Connecticut Avenue, N.W., Washington, D.C. 20525, or telephone toll-free 800-424-8867.

SUPPLEMENTARY INFORMATION: Amendments reflected in these proposed guidelines affect the scope of the grants, procedures for awarding grants, and reporting requirements. Specifically, these procedures now explicitly include those mini-grants funded either through non-federal contributions or Federal Inter-Agency Agreements. In addition, there is no longer special language to refer to the type of basic human needs Mini-Grants are intended to serve; the maximum allowable Federal share of the grant has been increased; and section 3, subsection (c), that the use of Federal funds must be directly related to supporting the project volunteers, has

been dropped. Reference to Agency funding priorities has been changed. Specific percentage set asides are no longer required. Those instructions regarding where application forms will be sent, which office will set deadlines, and who will provide project Close Out Reports have been changed only in the area of mini-grants funded by ACTION. Those other mini-grants funded either through non-federal contributions or Federal Inter-Agency Agreements may require applications to be submitted to ACTION State Offices or to the appropriate ACTION Program Office, Washington, D.C.

ACTION has reviewed these Guidelines and have determined that they are not a major rule as defined in E.O. 12291. The reason underlying this determination is that both the size and purpose of these grants are such that they will not have the economic ramification envisioned by E.O. 12291's definition of a major rule.

1. *Program Purpose.* a. The ACTION Mini-Grant Program is intended to initiate, strengthen and/or supplement volunteer efforts and to encourage broad-based volunteer citizen participation which will develop and enhance community self-reliance. Mini-Grants are intended to be directed to meet a broad range of basic human needs.

b. Mini-Grants should be considered and used as a means to establish or strengthen activities, mechanisms, and programs which may be one-time or ongoing in nature, but which must demonstrate a solid potential for long-term effect.

2. *Eligibility.* Public or private non-profit organizations, including, for example, hospitals, institutions of higher learning, and local units of government, which utilize, or will utilize, volunteers as an integral part of their provision of services may apply for grants.

3. *Scope of Grant.* The Mini-Grant Program provides funds on a one-time, non-renewable basis for a budget period not to exceed one year under the following conditions:

a. The Federal share of the grant award shall not normally exceed \$10,000 to organizations for a local project or \$15,000 to organizations for a project that relates to an entire state or Federal region.

b. All grants of \$3,500 or more in ACTION Federal funds require a

minimum matching share of 10% of the total grant cost. The matching share can be cash or an in-kind contribution, e.g., project director's salary and fringe benefits, space or equipment used by the project, or meals provided to project volunteers.

c. Mini-Grants will be awarded for projects which have measurable goals achievable in a specified time frame not to exceed one year.

d. Mini-Grants are basically a vehicle by which volunteers can be mobilized to help alleviate community problems. It is expected that for each Federal dollar awarded, at least one (1) hour of volunteer service will be generated. If the project is of a nature where numbers of volunteers and volunteer hours cannot be documented, then the grantee is asked to describe the impact of the project on the larger issue of volunteer activity in the organization/community.

e. ACTION reserves the right to establish funding priorities each year in order to meet national needs and Agency goals. For further information regarding current priorities contact the Office of Volunteer Liaison at the above address.

4. *Procedures.* a. Applications for those mini-grants funded by ACTION will be submitted to the ACTION Office of Volunteer Liaison (OVL) on ACTION Form A-1017 (OMB 3001-0069), Application for Federal Assistance, and ACTION Form A-1036 (OMB 3001-0036), Title 1, Part C Program Narrative. A-1017:

(1) Part I Face Sheet—Complete all items in Sections I and II. Do not make any entries in Section III.

(2) Part II Project Approval Information—Complete all items as requested.

(3) Part III Budget Information—Submit budget information as requested. Include a narrative justification for each line item in the budget.

A-1036:

(4) Part IV Project Narrative—The Program Narrative Statement should be brief, showing the need, objectives, approach, anticipated number of volunteers and volunteer hours, geographic location of the project, and the benefits expected.

(5) Part V Assurances—Submit with A-1017 and A-1036.

b. Demonstration Mini-Grant applications which are funded either through non-Federal contributions or

Federal Inter-Agency Agreements should be submitted to the appropriate ACTION Program Office on the ACTION forms listed in 4.a. above.

5. *Deadlines.* Deadlines for submission of applications are established by the Office of Volunteer Liaison.

6. *Reports and Records.* a. *Reports Requirements.* Grantee should maintain sufficient records in order to validate required financial and program reporting. Grantee will make financial reports on ACTION Form A-451 (OMB 3001-0068), Financial Status Report, within ninety (90) days after the end of the budget period. Grantee will submit a program progress report one-half of the way through the budget period and a final program report at the conclusion of the project in a form to be prescribed by the ACTION Office of Volunteer Liaison.

The final program report should reflect degree of achievement towards goals as outlined in the program narrative, including the actual number of volunteers and volunteer hours generated.

b. *Records Retention.* Grantee must retain all financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of three (3) years after submission of the final Financial Status Report. If any litigation, claim or audit is begun before the expiration of the three-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

(42 U.S.C. 4993)

Signed in Washington, D.C. on May 17, 1982.

Thomas W. Pauken,
Director.

[FR Doc. 82-13935 Filed 5-20-82; 8:45 am]

BILLING CODE 6050-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Flue-Cured Tobacco Advisory Committee; First Meeting

The Flue-Cured Tobacco Advisory Committee will meet at the offices of the Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Flue-Cured Tobacco Cooperative Stabilization Corporation, located at 1306 Annapolis Drive, Raleigh, North Carolina 27605, at 1:00 p.m., on Monday, June 7, 1982.

The meeting will commence with an orientation of the newly reconstituted membership, distribution of

informational materials and an explanation of the responsibilities of Committee members.

Immediately following the orientation session will be the election of officers, review of various regulations and proposed regulations issued under the Tobacco Inspection Act, 7 U.S.C. 511-511q, and discussion of the quantities of tobacco designated to warehouses in each marketing area for the 1982 flue-cured season.

The meeting is open to the public, though space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless otherwise requested by the Committee Chairperson. Persons, other than members, who wish to address the Committee at the meeting should contact J. T. Bunn, Deputy Director, Tobacco Division, Agricultural Marketing Service, 300 12th Street, SW., United States Department of Agriculture, Washington, D.C. 20250, (202) 447-7235.

Dated: May 19, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-14015 Filed 5-20-82; 8:45 am]

BILLING CODE 3410-02-M

Soil Conservation Service

Logan County Road 43 R.C. & D. Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the County Road 43, RC&D Measure, Logan County, Ohio.

FOR FURTHER INFORMATION CONTACT: Robert R. Shaw, State Conservationist, Soil Conservation Service, Room 522 Federal Building, 200 North High Street, Columbus, Ohio 43215, telephone (614) 469-6964.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on

the environment. As a result of these findings, Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns flood prevention along a county road. The planned works of improvement include catch basins, subsurface drains, an outlet structure and critical area seeding.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert R. Shaw.

No administrative action on implementation of the proposal will be taken until June 21, 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)

Dated: May 7, 1982.

Robert R. Shaw,

State Conservationist.

[FR Doc. 82-13501 Filed 5-20-82; 8:45 am]

BILLING CODE 3410-16-M

Mill Creek Watershed, Indiana

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to deauthorize Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Mill Creek Watershed project, Hendricks, Morgan, Owen and Putnam Counties, Indiana.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Soil Conservation Service, Corporate Sq.-West, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Indiana 46224, telephone 317-248-4350.

Mill Creek Watershed, Indiana: notice of intent to deauthorize federal funding

SUPPLEMENTARY INFORMATION: A determination has been made by Robert L. Eddleman that the proposed works of

improvement for the Mill Creek Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Robert L. Eddleman, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the *Federal Register*.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Robert L. Eddleman,
State Conservationist

Dated: May 12, 1982.

[FR Doc. 82-13755 Filed 5-20-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL RIGHTS COMMISSION

Maryland Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland Advisory Committee to the Commission will convene at 6:30 p.m. and will end at 9:00 p.m., on June 7, 1982, at the Fallon Federal Building, 31 Hopkins Plaza, in Room G-30, Baltimore, Maryland 21201. The purpose of this meeting is to discuss Montgomery County school closings, Braddock Heights response to hate group activities, and plan for an advisory committee forum on Maryland's migrant workers.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Martha E. Church, Hood College, Frederick, Maryland 21701, (301) 663-8083 or the Mid-Atlantic Regional Office, 2120 L Street, North West, Washington, D.C. 20027, (202) 254-6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 18, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-13943 Filed 5-20-82; 8:45 am]

BILLING CODE 6335-01-M

Pennsylvania Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 1:30 p.m. and will end at 4:00 p.m., on June 15, 1982, at the William S. Moorehead Federal Building, 1000 Liberty Avenue, in Room 2214, Pittsburgh, Pennsylvania 15222. The purpose of this meeting is to discuss current projects, identify new issues, and orient new members.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Joseph Fisher, 166 B Croskey Court, Philadelphia, Pennsylvania 19103, (215) 351-0776 or the Mid-Atlantic Regional Office, 2120 L Street, North West, Suite 510, Washington, D.C. 20037, (202) 254-6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 18, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-13944 Filed 5-20-82; 8:45 am]

BILLING CODE 6335-01-M

Rhode Island Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 4:00 p.m. and will end at 9:00 p.m., on June 24, 1982, at the Outlet Broadcasting, 110 Dorrance Street, Providence, Rhode Island 02903. The purpose of this meeting will be a report on the Affirmative Action and Police Practices project from the subcommittee members, discuss the program plans for voter redistricting followup and a forum on civil rights issues in education for 1982 and 1983 in Rhode Island.

Persons desiring additional information should contact the Chairperson, Dorothy Davis Zimmering, 12 Chapin Road, Barrington, Rhode Island, 02806, (401) 245-3515 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 17, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-13945 Filed 5-20-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Stainless Steel Sheet and Strip Products From the Federal Republic of Germany; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping investigation to determine whether certain stainless steel sheet and strip products from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of certain stainless steel sheet and strip products are materially injuring, or are threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before June 10, 1982, and we will make ours on or before October 4, 1982.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-2438.

SUPPLEMENTARY INFORMATION:

Petition

On April 26, 1982, we received a petition filed by counsel on behalf of eleven U.S. specialty steel producers and on behalf of the United Steeworkers of America. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports from the Federal Republic of Germany of certain stainless steel sheet and strip products are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the "Act") and that these imports are materially injuring, or are

threatening to materially injure, a U.S. industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain stainless steel sheet and strip products and have found that it meets these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether certain stainless steel sheet and strip products from the Federal Republic of Germany are being, or are likely to be, sold in the U.S. at less than fair value. If the investigation proceeds normally, we will make our preliminary determination by October 4, 1982.

Scope of the Investigation

The products covered by this investigation are certain stainless steel sheet and strip products. For a further description of these products see the appendix appearing with this notice.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by June 10, 1982, whether there is a reasonable indication that imports of certain stainless steel sheet and strip products from the Federal Republic of Germany are materially injuring, or are threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate;

otherwise, the investigation will proceed according to statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 18, 1982.

[FR Doc. 82-14012 Filed 5-20-82; 8:45 am]

BILLING CODE 3510-25-M

Foreign Traders Index; Expanded Data Tape Service

The Foreign Traders Index is an automated file which contains the names of about 140,000 foreign companies. In the past, the Office of Trade Information Services (OTIS) has supplied to the U.S. business community magnetic tapes containing the entire Foreign Traders Index or entire country portions of the Index. Now, in addition to these standards tapes, OTIS can produce custom-made tapes using criteria supplied by the tape purchaser. U.S. Firms can have tapes made which contain only the names of foreign firms which are of interest of them. Fees for this service vary according to the number of names put on tape. The \$400 basic fee entitles the tape purchaser to 1000 names. For every name over 1000, and additional fee of 12¢ will be charged. Estimates of total tape cost can be made at the time the tape is ordered. This service will become available on July 1, 1982. For more information contact Gerson Brusowankin at (202) 377-2988.

Dated: May 3, 1982.

Stephen B. Strauss,

Deputy Assistant Secretary for Trade Information and Analysis.

[FR Doc. 82-13948 Filed 5-20-82; 8:45 am]

BILLING CODE 3510-25-M

FTI Data Tape Service; Change in Price

FTI Data Tapes contain information on foreign organizations which is of interest to U.S. exporters for list-building purposes. They are made available by the International Trade Administration's Office of Trade Information Services. Effective July 1, 1982, the schedule which is used to determine the selling price of these tapes will be changed. The new schedule is as follows:

All Information in the Foreign Traders Index (FTI)

Selling Price: \$5,000

FTI Information by Countries

Selling Price: \$300 per country

Dated: May 3, 1982.

Stephen B. Strauss,

Deputy Assistant Secretary for Trade Information and Analysis.

[FR Doc. 82-13949 Filed 5-20-82; 8:45 am]

BILLING CODE 3510-25-M

TOP Data Tape Service; Change in Price

TOP Data Tapes contain listings of representational or direct purchase offers on the part of foreign firms or government organizations. They are made available by the International Trade Administration's Office of Trade Information Services. Effective July 1, 1982, the schedule which is used to determine the selling price of these tapes will be changed. The new schedule is as follows:

Weekly Compilations

Selling Price: \$4,200 per year

Bi-Weekly Compilations

Selling Price: \$2,100 per year

Dated: May 3, 1982.

Stephen B. Strauss,

Deputy Assistant Secretary for Trade Information and Analysis.

[FR Doc. 82-13950 Filed 5-20-82; 8:45 am]

BILLING CODE 3510-25-M

Trade Lists; Change in Price

Trade Lists are lists of foreign organizations which may be of interest to U.S. exporters. They are published by the International Trade Administration's Office of Trade Information Services. Effective July 1, 1982, the schedule which is used to determine the selling price of these Trade Lists will be changed. The new schedule is as follows:

| Number of pages in trade list | Selling price |
|-------------------------------|---------------|
| 1 to 125..... | \$12.00 |
| 126 to 350..... | 25.00 |
| 351 or more..... | 40.00 |

Trade Lists dated January 1, 1982, or later, will be priced according to this schedule. For more information, contact Gail Brooks at 202-377-2988.

Dated: May 3, 1982.

Stephen B. Strauss,

Deputy Assistant Secretary for Trade Information and Analysis.

[FR Doc. 82-13947 Filed 5-20-82; 8:45 am]

BILLING CODE 3510-25-M

High Power Microwave Amplifiers and Components Thereof From Japan

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Determination of Sales at Less Than Fair Value.

SUMMARY: We have determined that radio-frequency power amplifier assemblies and components thereof ("HPA's") specifically designed for uplink transmission in the C, X and Ku bands from fixed earth stations to communications satellites and having a power output on one kilowatt or more are being, or are likely to be, sold in the United States at less than fair value. The U.S. International Trade Commission ("ITC") will determine within 45 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT: Steven Morrison, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (202) 377-3965.

SUPPLEMENTARY INFORMATION:

Case History

On July 24, 1981, we received a petition in proper form from Aydin Corporation, Ft. Washington, Pennsylvania. MCL, Inc., of LaGrange, Illinois subsequently requested and was granted co-petitioner status. The petition alleged that HPA's from Japan were being sold in the United States at less than fair value and that such sales were materially injuring a U.S. industry. To support its allegations of less than fair value sales, the petitioner compared the purchase price of the goods in question with a value constructed from petitioner's costs. The petitioner also claimed that this case presented "critical circumstances" (19 U.S.C. 1673b).

After reviewing the petition, we determined it contained sufficient grounds to initiate an antidumping investigation. Therefore, we notified the U.S. International Trade Commission of our action and on August 17, 1981, we announced the initiation (46 FR 41542) and served the Nippon Electric Company, Ltd. ("NEC Ltd.") with a questionnaire in Tokyo on the same day. On September 16, 1981, the ITC published its preliminary finding that there was a reasonable indication that an industry in the United States was threatened with material injury by imports of HPA's from Japan (46 FR 46021).

Although the response was due on September 17, 1982, the respondent requested and received extensions of time to respond. The response was received on October 9, 1981. We conducted a verification of this response in the beginning of November, 1981. It revealed substantial variation in parts and materials costs from the data in the response to the Department of Commerce's questionnaire. Labor hours were not verified because they were estimates and NEC Ltd. could not support them by company records associated with the HPA's under investigation. (Since production had not been completed at the time that the original response was due, it was based on cost estimates by NEC Ltd.) At this first verification we requested revised submissions of parts and materials costs for both the Klystron and Traveling Wave Tube ("TWT") HPA's. On December 1, 1981, NEC Ltd. submitted a revised response on parts and materials costs for the TWT HPA's, but refused to supply a revision for the Klystron HPA's as we had requested.

On December 24, 1981, we preliminarily determined that HPA's from Japan are being sold in the United States at less than fair value and a notice of this determination was published on December 31, 1981 (46 FR 63364). In that determination we relied on the December 1, 1981 submission for TWT parts and materials, and the estimated labor hours from that response for both the TWT and Klystron HPA's.

In the preliminary determination we stated that the petitioner had not alleged all the facts that were necessary to support a finding of critical circumstances according to the statute (19 U.S.C. 1673b), nor did it submit evidence pertaining to the omission. We therefore determined that critical circumstances did not exist. No new information has been submitted which would factually support a different determination on this matter.

On January 8, 1982 we sent NEC America, Inc. ("NECAM") a questionnaire. NECAM is a wholly-owned subsidiary of NEC Ltd. They submitted a response on January 27, 1982. A verification was conducted in March, 1982 at both NECAM's corporate headquarters division in Melville, N.Y., and at the division in Fairfax, Virginia, which was directly responsible for the sale and liaison of the merchandise which is the subject of this investigation. NECAM submitted an amended response dated March 17, 1982, which changed estimated data in its original response to reflect actual cost experience in the intervening time.

A second verification of NEC Ltd. was conducted in March 1982, after the Department of Commerce had issued its preliminary determination. During this verification the Department discovered that the information submitted by NEC Ltd. varied greatly from the financial data in the company records. Information relied on in this final determination is based on the verified data from NEC Ltd.'s records and not on NEC Ltd.'s submitted data. The labor hours supplied by NEC Ltd. were estimated and these estimates could not be verified from company records. Therefore, the Department has used the best information otherwise available which in this case is the verified information with the exception of the number of labor hours for assembly. With respect to assembly labor hours, the Department used the petitioner's labor hour estimates and adjusted for extra testing procedures and design costs.

The respondent submitted a request for postponement of the public hearing and for extension of time for the final determination. In a Federal Register notice dated January 25, 1982 (47 FR 3393), we postponed the public hearing until April 7, 1982, and the final determination until May 17, 1982.

Scope of Investigation

For purposes of this investigation, HPA's are radio-frequency power amplifier assemblies and components thereof specifically designed for uplink transmission in the C, X, and Ku bands from fixed earth stations to communication satellites and having a power output of one kilowatt or more. HPA's may be imported in subassembly form, as complete amplifiers, or as a component of higher level assemblies (generally earth stations). They are currently classified under item 685.29 of the *Tariff Schedules of the United States*.

Since NEC Ltd. is the only known manufacturer of all the HPA's that were exported from Japan to the United States during the period of investigation, we limited our investigation to that company. There were two distinct types of HPA's exported to the United States during the period: Klystron amplifiers, which include a Klystron output tube; and TWT amplifiers, which include a traveling wave output tube.

The period of this investigation covers the HPA's sold by NEC Ltd. and NECAM in the period March 1, 1981 through August 31, 1981. These were manufactured, tested and delivered in the period March through December, 1981. These consisted of 9 Klystron

HPA's and 20 TWT HPA's sold to the Communications Satellite Corporation ("Comsat") under contracts ESOC-1263 and ESOC-1264 respectively.

Methodology for Fair Value Comparison

In making fair value comparisons, we compared United States price with foreign market value.

U.S. Price

To determine the United States price of the merchandise, we used purchase price, as defined in section 772(b) of the Tariff Act of 1930, as amended ("the Act"), because the merchandise was sold to an unrelated U.S. customer at a price agreed upon before it was imported into the United States. Adjustments were made by deducting charges specified under section 772(d) of the Act. These included the following expenses incurred in Japan: inland freight, airport usage, handling, airport storage, and cartage. Deductions for expenses of importation of this merchandise into the United States were made for storage, handling and related items incorporated into U.S. broker charges and U.S. inland freight.

Foreign Market Value

To arrive at the foreign market value of the merchandise, we used constructed value, as defined in section 773(e) of the Act, because there were no sales of HPA's in the home market or to third countries.

We constructed the foreign market value of HPA's by adding the material and fabrication costs, the normal general expenses of the manufacturer (which exceeded the statutory minimum), the proportional direct and general expenses of NECAM, which sold the HPA's under investigation (and other products) in the United States, letter of credit commissions and fees for discounting these letters of credit for advance payment, the statutory profit of 8% of the foreign market value except for packing, and the cost of packing. The fabrication costs were a composite of data from the best information available, including the data in the petition, where applicable.

Finding of Less Than Fair Value Sales

Based on a comparison of purchase price to constructed value of both the Klystron HPA's and the TWT HPA's, we have found less than fair value margins for both products. The margins are:

- 25.4% TWT high power amplifiers.
- 41.4% Klystron high power amplifiers.
- 41.4% For parts of high power amplifiers unless such parts are dedicated exclusively for use in

TWT high power amplifiers in which case the margin is 25.4%.

Since many parts of Klystron HPA's are interchangeable with TWT HPA's, the security deposit for HPA parts shall be the same as for Klystron HPA's, unless the importer can demonstrate that the parts are dedicated solely for use in TWT HPA's.

Issues

Major issues in this investigation are presented below.

Petitioner's Statement of Issues

Issue: Petitioner requests that an adjustment be made for license fees to be assessed under a technical know-how agreement between NEC Ltd., and a U.S. manufacturer, not a party to these proceedings, pertaining to certain Klystrons and TWT tubes.

DOC position: We confirmed the existence of such an agreement during verification. NEC Ltd. states that the tubes used in the Comsat contract did not come under the technical know-how agreement. NEC Ltd. stated that no royalties were due under the licensing agreement and that none would be paid for the tubes used in the Comsat HPA's. We called the U.S. manufacturer (licensor) and it confirmed that no royalties were due for the tubes used by NEC Ltd. for the Comsat HPA's. Therefore, we made no adjustment for the petitioner's claim for license fees.

Respondents' Statement of Issues

Issue: The respondent asserted that the expense incurred by NEC Ltd. for immediate payment of money sent to it from NECAM via a letter of credit with delayed payment terms was simply a short term method of financing its U.S. operations by the parent company, and therefore the Department should not add this expense to foreign market value of the HPA's. It said that there was not basis for treating these transactions differently than any other short term financing arrangement. It also argued that if the Department did add the letter of credit expense to the constructed value it should also subtract all interest expenses from the G, S & A calculation (to avoid double counting the same expense).

DOC position: The internal transfer of funds to NEC Ltd. was made by letter of credit and telegraphic transfer of funds. Such transfers were specifically required by the purchase order between NECAM and NEC Ltd. for Comsat contracts ESOC 1263 and ESOC 1264. These transfers of funds are not a general financing of the U.S. subsidiary. They are a specific arrangement directly applicable to the financing of the sale of

the specific merchandise which is the subject of this investigation.

NEC Ltd. did not establish the magnitude of the impact that such letter of credit interest charges had on G, S & A, if any. They did not document that such charges were included in their G, S & A. During the second verification of NEC Ltd. in March, 1982 financial information for the October through December, 1981 quarter was requested. NEC Ltd. did not provide it. Most of the expense for discounting these letters of credit associated with the Comsat contracts occurred during this quarter. Since NEC Ltd. has failed to establish to what extent, if any, the letter of credit interest charges are included in G, S & A, the Department has not made any adjustment to G, S & A for these interest charges even though it has added them to the foreign market value as a circumstance of sale adjustment.

Issue: The respondent asserted that the Department of Commerce erred in the calculation methodology for G, S & A expenses of NEC in the preliminary determination.

DOC position: In its original response, NEC Ltd. calculated its G, S & A expense as a percentage of "cost of sales". The Act, (19 U.S.C. 1677b(e)), indicates that G, S & A calculations should be expressed as a percentage of materials and fabrication or processing costs. At the time that the preliminary determination was made, we understood the term "cost of sales" as used by NEC Ltd. in its response to the Department's questionnaire to mean materials, fabrication and G, S & A. If this were the situation, then the G, S & A calculated by NEC Ltd. would have been understated. Based on an affidavit with supporting documentation and information obtained during the second verification of NEC Ltd., it has been determined that the term "cost of sales" as used by NEC Ltd. in the original response, did not include its G, S & A. Therefore, the calculation of G, S & A has been revised as suggested by respondent.

Issue: The respondent argues that the G, S & A expense of one of seven groups within a division of NECAM was primarily responsible for all aspects of the Comsat contracts in the United States and that such expense should be apportioned over the division's entire sales in determining the total G, S & A as a percentage of sales allocated to the Comsat contracts.

DOC position: In its response to the Department's questionnaire, NECAM proposed that the contribution of the Radio and Transmission (R&T) division to NECAM's G, S & A be based on the

ratio of the R&T division's Administrative Group expenses divided by all of R&T division's sales. The Administrative Group is the one group (of seven) in the R&T division which markets and performs services for NEC Ltd. on the products under investigation. The Department's view is that it would not be a proper allocation method to use only Administrative Group expenses; rather they should be apportioned on the basis of expenses of the R&T Division. The entire R&T division had G, S & A expenses in connection with most of these sales, not included in the Administrative Group's expense. The Department has made its proration based on comparing expenses and sales from the same unit, namely the G, S & A expense of the entire R&T division, divided by the sales of the entire R&T division.

Issue: Respondent argues that the overall G, S & A expenses of NECAM's Headquarters division should not be allocated as overhead costs to the products under investigation. They state that the only involvement of NECAM's Headquarters in the sale of products under investigation are in terms of arranging shipping documentation and letters of credit. Respondent claims that the Department should prorate the time and related expenses of personnel involved in these activities to allocate G, S & A expenses of NECAM.

Alternatively, the respondent argues that the Department should use their internally formulated management fee for the NECAM G, S & A calculation. Their management fee is principally based on the amount of interest expenses incurred and the number of employees directly working on a contract.

DOC position: NECAM's expenses for operating in the United States include establishing policies, facilities, providing centralized functions such as accounting and financing, and general coordination with the parent company in Japan. In addition, the Headquarters division arranged for shipping and documentation distributions for the Comsat contracts.

We determined that the management fee by which the Headquarters division taxes its operating divisions is weighted to tax this expense based on outstanding interest expenses and the number of people involved in the activity. The Comsat merchandise was not subjected to this interest expense and had few people directly working on it. We have determined that a more reasonable method of allocating the cost of operating NECAM through its headquarters should be based on the value of the transactions which benefit

from this supervisory control. Therefore, we calculated G, S & A for Headquarters division as a percentage of total NECAM sales.

Issue: The respondent claims that commissions and service revenues should be added to total sales in apportioning NECAM Headquarters G, S & A expense.

DOC position: The proposed adjustment has no measureable effect on the dumping margins calculated, unless such margins are computed to two more decimal places of accuracy. We determined that we will not consider such an adjustment under section 773(f) of the Act, which allows us to disregard insignificant adjustments.

Issue: The respondent claims a conversion rate should be used other than the one used by the Department in its preliminary determination in calculating foreign market value. The respondent argued that the Department's regulations require such as adjustment under 19 CFR 353.56(b). That rule states in part: "Where prices under consideration are affected by temporary exchange rate fluctuations, no differences between prices being compared resulting solely from such exchange rate fluctuations will be taken into consideration."

DOC position: Based upon examination of the exchange rate data, we have determined that there were no temporary exchange rate fluctuations around the date of sale. Our selection of the date of contract to determine the rate of exchange is required by DOC's regulations. The rate of exchange used, as required by 19 CFR 353.56(a), is based on the date of sale (1 Yen = \$.004938).

Issue: The respondent has argued that a discount allowed for the Klystron HPA contract price should not be subtracted entirely from the U.S. price for the equipment.

DOC position: During the first verification, it was determined that during final negotiations of the two contracts, NEC Ltd. granted a discount to Comsat which was entirely subtracted from the contract line price for "documentation" in the Klystron HPA contract. The discount was described as being based on the fact that NEC Ltd. was also awarded the TWT contract. For purposes of our calculation the discount was applied to the Klystron equipment price since there would have been no contract without the purchase of the equipment.

Issue: Respondent maintains that the price comparisons should include testing costs in addition to equipment costs.

DOC position: Based on verified representations by respondent, it was

determined that equipment and testing costs were combined and not able to be segregated on the books and financial records of NEC Ltd. Therefore, we added contract line items for equipment and for testing when calculating the U.S. price to make it comparable to the respondent's financial data used in determining foreign market value.

Issue: Respondent alleges that it is improper to subtract U.S. freight and U.S. broker charges from the line items for equipment.

DOC position: During the investigation, it was determined that the United States price for equipment included inland freight and charges relating to processing, handling and storage which constitute the brokerage fees. These charges were subtracted from the U.S. Price for equipment and testing as required by 19 U.S.C. 1677a to determine an ex factory comparison to the constructed value. The items indicated above, which were incorporated into the calculation of U.S. price, are not part of the separate contract line items for duty or intercontinental air freight in the two Comsat contracts. The determination of U.S. price is not adjusted for U.S. duty or intercontinental air freight.

Issue: Respondent alleges that the Klystron HPA packing costs were correctly stated in its questionnaire response. They argue that the verification report indicates that the packing costs as indicated in the response are reasonable and that no adjustment is warranted.

DOC position: NEC Ltd.'s response to the Department's questionnaire contained estimated packing costs for the Klystron and TWT HPA's in yen. The conversion from yen to dollars was miscalculated in the preliminary determination, but only for the Klystron HPA's. Although the same amounts in yen were used in both determinations, the dollar amount, after converting the currency, is higher in this final determination. The only change to packing costs from those used in the preliminary determination is to correctly calculate the dollar value of packing costs with respect to Klystron HPA's using the respondent's estimated costs in yen.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making this determination. In a few instances the best information available was used for items which could not be verified from company books and records. We were granted access to the books and records of the

foreign manufacturer. However the respondent, after the first verification, temporarily refused to give the Department custody of copies of records which we requested. We used standard verification procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and randomly selected documents containing relevant information.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that HPA's from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act.

Continuation of Suspension of Liquidation

The liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended. The U.S. Customs Service will continue to require posting of a cash deposit, bond, or other security in the amounts listed below, expressed as a percentage of the F.O.B. value of the high power microwave amplifiers from Japan for transmission in the C, X, or Ku bands as follows:

- 25.4% TWT high power amplifiers.
- 41.4% Klystron high power amplifiers.
- 41.4% for parts of high power amplifiers unless such parts are dedicated exclusively for use in TWT high power amplifiers, in which case the rate is 25.4%

ITC Notification

We are notifying the ITC and making available to it all non-privileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on all HPA's from Japan entered, or withdrawn from warehouse, for consumption after the

suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Gary N. Horlick,

Acting Assistant Secretary for Trade Administration.

May 17, 1982.

[FR Doc. 82-14013 Filed 5-20-82; 8:45 am]

BILLING CODE 3510-25-M

Prestressed Concrete Steel Wire Strand From South Africa; Suspension of Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of suspension of investigation.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving prestressed concrete steel wire strand (PC strand) from South Africa. The basis for the suspension is an agreement by Haggie Limited, the only known South African manufacturer and exporter of PC strand, to renounce all benefits which we preliminarily found to be bounties or grants on exports of the subject merchandise to the United States.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377-1774.

SUPPLEMENTARY INFORMATION: On November 9, 1981, we received a petition from counsel for American Spring Wire Corporation, Bethlehem Steel Corporation, Florida Wire & Cable Company and Shinko Wire America, Inc. The petition alleged that the government of South Africa provides bounties or grants to its producers and exporters of PC strand through the following programs: preferential railroad rates, reduced harbor rates, reduced ocean freight rates, export credit insurance, pre- and post-shipment financing, Export Incentive Programs, the Iron/Steel Export Promotion Scheme, employee training allowances, beneficiation allowances for base mineral processing, homeland development and other indirect benefits.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate a countervailing duty investigation. Therefore, on November 25, 1981, we announced our initiation (46 FR 59283).

We presented a questionnaire concerning the allegations to the government of South Africa. On February 25, 1982, we received a response to the questionnaire which covers the period of calendar years 1980 and 1981. Between March 9 and March 17, we verified this information by a review of government documents and company books and records of Haggie Limited, the only known manufacturer and exporter in South Africa of the subject merchandise. We stated in our notice of initiation of the investigation that we expected to issue a preliminary determination by February 2, 1982. However, we postponed the preliminary determination on January 12, 1982, to no later than April 8, 1982, and published a notice in the *Federal Register* (47 FR 2789). The reason for the postponement was that we determined, in accordance with section 703(e)(1)(B) of the Tariff Act of 1930, as amended ("the Act"), that the investigation was extraordinarily complicated.

Counsel for Haggie Limited, in a letter dated February 26, 1982, proposed entering into a suspension agreement pursuant to section 704 of the Act and § 355.31 of the Commerce Regulations. On April 8, 1982, we preliminarily determined that the government of South Africa is providing bounties or grants to manufacturers, producers, and exporters of PC strand under three export programs. The programs preliminarily found to be countervailable were the railroad rate differential; the Export Incentive Programs, categories B, C and D; and the Iron/Steel Export Promotion Scheme. On the same date, April 8, 1982 Haggie and the Department of Commerce initialed a proposed suspension agreement, which was based upon Haggie's agreement to eliminate completely all benefits which we preliminarily found to be bounties or grants on exports of the subject merchandise to the United States.

Notice of the affirmative preliminary countervailing duty determination was published in the *Federal Register* on April 14, 1982 (47 FR 16060). We directed the U.S. Customs Service to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise on or after April 14, 1982, and to require a cash deposit or bond in the amount of 27.1 percent of the f.o.b. value of the merchandise.

On April 8, 1982 we provided copies of the proposed suspension agreement between Haggie Limited and the Department of Commerce to the petitioners for their consultation and to other parties to the proceeding for their

comments. Notice of the proposal concerning suspension of the investigation was published in the *Federal Register* on April 28, 1982 (47 FR 18162).

The Department consulted with the petitioners and has considered the comments submitted with respect to the proposed suspension agreement. We have determined that the agreement eliminates the bounties or grants completely with respect to the subject merchandise exported directly or indirectly to the United States, can be monitored effectively, and is in the public interest. We, therefore, find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement are set forth in Annex 1 to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of entries, or withdrawals from warehouse, for consumption of PC strand from South Africa effective April 14, 1982, as directed in the Preliminary Affirmative Countervailing Duty Determination is hereby terminated. Any cash deposits on entries of PC strand from South Africa pursuant to that suspension of liquidation shall be refunded and any bonds or other security shall be released.

The Department intends to conduct an administrative review within twelve months of the publication of this suspension as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation, if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 17, 1982.

Annex I—Strand From South Africa Agreement

Prestressed Concrete Steel Wire Strand From the Republic of South Africa Agreement

Pursuant to the provisions of section 704 of the Tariff Act of 1930 (the Act) and § 355.31 of the Commerce Regulations, the United States Department of Commerce (the Department) enters into the following Suspension Agreement with Haggie Limited (Haggie), Head Office, Lower Gremiston Road, Jupiter, Johannesburg 2093, South Africa. On the basis of this Agreement, the Department shall

suspend its countervailing duty investigation with respect to prestressed concrete steel wire strand from the Republic of South Africa in accordance with the terms and provisions set forth below:

A. Product Coverage

The Suspension Agreement is applicable to all prestressed concrete steel wire strand manufactured by Haggie Limited and directly or indirectly exported to the United States (hereinafter referred to as the subject product). Prestressed concrete steel wire strand is used to compress concrete to provide active resistance to loads in such items as girders, beams, pilings and other building products. It is currently provided for in item number 642.1120 of the *Tariff Schedules of the United States Annotated*.

B. Basis of the Agreement

1. Haggie is the only known manufacturer/exporter of the subject product. Haggie voluntarily agrees not to apply for or receive any benefits from the South African Transport Service's railroad freight rates for export, the Export Incentive Programs administered by the South African Department of Industries, Commerce & Tourism, and the Iron/Steel Export Promotion Scheme on exports of the subject product. Specifically:

(a) Haggie will pay the domestic container rate on the subject product described in paragraph A above, for all shipments destined for the United States leaving Haggie's factory on or after April 1, 1982.

(b) Haggie will not apply for or receive the tax credit allowed on the value-added component of the subject product for all shipments entering the United States, or withdrawn from warehouse, for consumption on or after September 1, 1982.

(c) Effective April 1, 1982 the Finance Charges Aid Scheme has been terminated by the Republic of South Africa. Haggie will not apply for or receive benefits under this program if it is reinstated.

(d) Haggie will not apply for or receive a tax deduction on market development expenses under the Export Marketing Assistance Program with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after September 1, 1982.

(e) Haggie will not participate in the Iron/Steel Export Promotion Scheme with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for

consumption on or after September 1, 1982.

Renunciation of the receipt of these benefits does not constitute an admission by Haggie that such benefits are bounties, grants or subsidies within the meaning of the U.S. countervailing duty law or any other U.S. law.

Haggie certifies that no new benefits will be applied for or received for the subject product as a substitute for any benefits eliminated by this Agreement.

2. In accordance with the provisions of the Act and applicable regulations, this Agreement applies to the product described in Paragraph A which is produced in the Republic of South Africa and exported directly or indirectly to the United States.

3. Haggie agrees that during the six-month period following the effective date of the suspension of the investigation the quantity of the subject product exported directly or indirectly to the United States from the Republic of South Africa, will not exceed the quantity of such exports during the six-month period of June through November 1981.

4. The Department will monitor all exports of the subject product to the United States during the six-month period following the effective date of the suspension of the investigation and will issue instructions to deny entry, or withdrawal from warehouse, for consumption of the subject product exported in excess of the quantity exported during the period June through November 1981.

C. Monitoring

Haggie agrees to supply to the Department such information as the Department deems necessary to demonstrate that it is in full compliance with this Agreement. Haggie will notify the Department if it: (1) Transships the subject product through third countries, (2) alters its position with respect to any terms of the Agreement, (3) applies for or receives directly or indirectly the benefits of the programs described in Paragraph B for the manufacture of the subject products exported to the United States.

Furthermore, Haggie agrees to undertake the obligation to report to the Department within 15 days of the beginning of each calendar quarter (April, July, October, January) the volume of prestressed concrete steel wire strand it has exported to the United States. Haggie also agrees to permit such verification and data collection as deemed necessary by the Department in order to monitor this Agreement. The Department shall request such

information and perform such verifications periodically pursuant to administrative reviews conducted under section 751 of the Act.

D. Reopening of the Investigation

The Department shall terminate this Agreement and will reopen the investigation or issue a countervailing duty order, as appropriate under § 355.32 of the Commerce Regulations, with respect to prestressed concrete steel wire strand from the Republic of South Africa described in Paragraph A above and exported to the United States by Haggie Limited if the Department determines pursuant to section 704(i)(1) of the Act, that Haggie has altered or terminated its renunciation of all benefits described in Paragraph B above or has not otherwise honored its obligations under this Agreement. The Department will also terminate this Agreement and will reopen the investigation or issue a countervailing duty order, as appropriate under § 355.32 of the Commerce Regulations, if it determines that the suspension of this investigation is no longer in the public interest or that effective monitoring is no longer practicable as required by section 704(d)(1) (A) and (B), or if this Agreement has been violated.

Additionally, should Haggie's annual imports account for less than 85% of the prestressed concrete steel wire strand imported to the United States from the Republic of South Africa, the Department on its own initiative or at the request of the petitioner, may terminate this Agreement and reopen the investigation or issue a countervailing duty order, as appropriate under § 355.32 of the Commerce Regulations. If reopened, the investigation will be resumed for all prestressed concrete steel wire strand exporters as if the affirmative preliminary determination was made on the date that the Department terminates this Agreement.

Signed on this 17th day of May, 1982.

For Haggie Ltd.

By Larry E. Klayman,

Special Counsel, Haggie Ltd.

I have determined that the provisions of Paragraph B completely eliminate the bounties or grants that the Republic of South Africa is providing with respect to prestressed concrete steel wire strand exported directly or indirectly to the United States and that the provisions of Paragraph C ensure that this Agreement can be monitored effectively pursuant to section 704(d) of the Act. Furthermore, I have determined that this Agreement meets the requirements of section 704(b) of the Act and is in the public interest as required in section 704(d) of the Act.

U.S. Department of Commerce.

By Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-14014 Filed 5-20-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Conference on Weights and Measures; Meeting

Notice is hereby given that the 67th Annual Meeting of the National Conference on Weights and Measures will be held July 12-16, 1982 at the Atlanta Marriott Hotel, in Atlanta, Georgia.

The National Conference on Weights and Measures is an organization of weights and measures enforcement officials of the States, counties, and cities of the United States as well as associated Federal, industry, and consumer representatives. The annual meeting of the Conference brings together the enforcement officials, other government officials, and representatives of business, industry, trade associations, and consumer organizations for the purpose of hearing and discussing subjects that relate to the fields of weights and measures technology and administration.

Pursuant to authority in its Organic Act (15 U.S.C. 272(5)), the National Bureau of Standards acts as a sponsor of the National Conference on Weights and Measures in order to provide the technical basis for uniformity among the States in the complex of laws, regulations, methods, and testing equipment that comprises regulatory control by the States of commercial weighing and measuring.

The meeting is open to the public. A registration fee of \$85 per person has been established by the Conference Executive Committee to pay for expenses of the meeting. Additional information concerning the Conference program and arrangement may be obtained from Mr. Albert D. Tholen, Executive Secretary, National Conference on Weights and Measures, National Bureau of Standards, Washington, D.C. 20234; telephone—301/921-2401.

Dated: May 17, 1982.

Ernest Ambler,

Director.

[FR Doc. 82-13816 Filed 5-20-82; 8:45 am]

BILLING CODE 3510-13-M

Proposed Revision to Federal Information Processing Standard 86; Additional Controls for Use With ASCII

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing standards.

On January 29, 1981, a notice was published in the *Federal Register* (46 FR 9687-9688), announcing the approval of Federal Information Processing Standards Publication (FIPS PUB) 86, Additional Controls for Use with ASCII. On February 5, 1982, a notice was published in the *Federal Register* (47 FR 5450) indicating that the Secretary of Commerce had amended FIPS PUB 86 by changing the effective date from January 29, 1982 to September 30, 1982, and indicating that a proposed revision to the applicability section of FIPS PUB 86 would be forthcoming. This notice gives that proposed revision and solicits comments.

In FIPX PUB 86, section 11 on Implementation Schedule contains the expression "in conformance with this standard." As a result of comments received in response to the January 29, 1981 notice, it is proposed to revise section 8, Applicability, and section 10, Qualifications, to clarify the meaning of "conformance" in the context of FIPS PUB 86, by replacing sections 8 and 10 with the following paragraphs:

8. *Applicability.* This standard is applicable to the acquisition and use of all ADP equipment and services that involve character imaging which: (1) Employ the character set and encoding conventions prescribed by FIPS PUB 1-1 (ASCII) and FIPS PUB 35 (Code Extension in 7 or 8 Bits); (2) employ character-oriented controls; and (3) are consistent with the device architectural assumptions given in Appendix B of ANSI X3.64-1979. All ADP terminal devices containing alphanumeric keyboards and either CRT displays or printers that may be used in any form of on-line interactive applications (such as data entry) or stand-alone off-line data preparation, and which satisfy all three of the conditions above, are covered by this standard. A waiver must be requested in accordance with the waiver provisions in section 12 below for the acquisition of ADP terminal equipment having control functions defined by this standard (or their operational equivalents) which are performed by means that do not conform with the provisions of this standard.

10. *Qualifications.* Terminals conforming with this standard need not implement all of the control functions defined by this

standard, and they may implement supplemental character-oriented control functions not defined by this standard. However, when any of the control functions defined by this standard (or their operational equivalents) are implemented, they must be implemented in accordance with the provisions of this standard. Additionally, computer resident control software may be, or may not be, required to implement all features of this standard, at the option of the procuring agency.

Note.—Announcement of a planned related FIPS on bit-oriented controls in the *Federal Register* is currently being processed; its publication is anticipated to occur in the near future. This note is explanatory and is not part of FIPS 86.

Prior to the submission of this proposed revision to the Secretary of Commerce for review and approval as an amendment to a Federal Information Processing Standard, it is essential to assure that proper consideration is given to the views of Federal departments and agencies, the public, State and local governments, and to offerors of applicable equipment and services. The purpose of this notice is to solicit such views.

Interested parties may obtain a copy of FIPS PUB 86 from, and submit comments in writing to, the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, DC 20234, ATTENTION: Proposed Revision to FIPS PUB 86 on Additional Controls. To be considered, comments relating to this announcement must be received on or before August 18, 1982.

Written comments received in response to this notice will be made part of the public record and be available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6078, Main Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, DC 20230.

Persons desiring further information about this proposed revision to FIPS PUB 86 may contact Mr. John L. Little, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, DC 20234, telephone: 301/921-3723.

Dated: May 17, 1982.

Ernest Ambler,
Director.

[FR Doc. 82-13815 Filed 5-20-82; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Marine Mammals; Western Geophysical Co., et al.; Issuance of Letters of Authorization

Notice is hereby given that the National Marine Fisheries Service issued Letters of Authorization under the authority of the Marine Mammal Protection Act of 1972, as amended, to conduct activities allowed under 50 CFR Part 228, Subpart B—Taking of Ringed Seals Incidental to on-Ice Seismic Activities to the following:

Western Geophysical Company, 351 E. International Airport Road, Anchorage, Alaska 99502. Issued on May 18, 1982.

Consolidated Georex Geophysics, 699 Hampshire Road, Suite 203, Westlake Village, California 91361. Issued on May 18, 1982.

Geophysical Service Inc., 5801 Silverado Way, Anchorage, Alaska 99502. Issued on May 18, 1982.

These letters of Authorization are valid for the remainder of 1982 and are subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities (50 CFR Part 228, Subparts A and B). These Letters of Authorization are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: May 18, 1982.

Richard B. Roe,
Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-13974 Filed 5-20-82; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Naval Ocean Systems Center; Modification of Permit

On August 12, 1977, Notice was published in the *Federal Register* (42 FR 40962) that a Permit had been issued to the Naval Ocean Systems Center, Department of the Navy, San Diego, California. The Permit is modified as follows:

Section B-10 is modified by substituting the following: "B-10. This Permit is valid with respect to the taking

authorized herein until December 31, 1985."

This modification is effective on May 21, 1982.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 14, 1982.

Richard B. Roe,
Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-13975 Filed 5-20-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1982 military resale commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: May 21, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: On December 18, 1981 and February 22, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (46 FR 61694 and 47 FR 7721) of proposed additions to Procurement List 1982, November 12, 1981 (46 FR 55740).

After consideration of the relevant matter presented, the Committee has determined that the military resale commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following military resale commodities and service are hereby added to Procurement List 1982:

Military Resale Item Nos. and Names

- No. 541 Scrubber, Bathroom, with handle
 No. 542 Scrubber, Kitchen, with handle
 No. 543 Scrubber, Grill and Garage, with handle
 No. 965 Cover, Ironing Board, Color Coated

SIC 7331

Mailing Service, Department of Treasury,
 Bureau of Engraving and Printing, 14th and
 C Streets, S.W., Washington, D.C.

C. W. Fletcher,

Executive Director.

[FR Doc. 82-13936 Filed 5-20-82; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1982; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1982 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 23, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1982, November 12, 1981 (46 FR 55740):

Class 6532

- Gown, Hospital, 6532-00-104-9895
 Gown, Patient, Examining, 6532-00-421-7828

Class 8455

- Holder, Identification, Personnel, 8455-00-898-9730

SIC 7349

Custodial Services, Smithsonian Institute, Service Center, North Capitol Street, Washington, D.C.

Janitorial, Mechanical Service, Federal Building, Courthouse, Bowling Green, Kentucky

Janitorial/Custodial, Federal Building and U.S. Courthouse, 4th and Market Street, Camden, New Jersey

Janitorial Service, U.S. Courthouse, 68 Court Street Entrance, Buffalo, New York

Janitorial Services, Federal Building, Bonneville Power Administration, 1002 N.E. Holladay Street, Portland, Oregon

Janitorial Service, Salem District Office of BLM, 1717 Fabry Road, S.E., Salem, Oregon

SIC 7399

Part Sorting, Hill AFB, Utah

C. W. Fletcher,

Executive Director.

[FR Doc. 82-13937 Filed 5-20-82; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE**Department of the Army****Army Science Board; Closed Meeting**

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Date of Meeting: Wednesday, June 9, 1982

Time: 0830-1700 hours, June 9, (Closed)

Place: U.S. Army Medical Research and Development Command, Fort Detrick, MD

Agenda: The Army Science Board 1982 Summer Study Group on Chemical Warfare will meet to receive classified briefings and hold discussions on the Biological Threat and Army Medical Research, Development, Test and Evaluation (RDTE) Program and Chemical/Biological Defense. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-13951 Filed 5-20-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)

Date of meeting: Tuesday, June 15, 1982

Time: 0830-1700 hours, June 15, (Closed)

Place: U.S. Army Missile Command (MICOM)/NASA, Huntsville, Alabama

Agenda: The Civilian Physical Life and Social Scientists Working Group of the Army Science Board 1982 Summer Study on Science and Engineering Personnel will meet for briefings, discussions, and assessment of science and engineering personnel needs, and for classified briefings by MICOM and NASA personnel addressing that subject. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-13592 Filed 5-20-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: Monday, June 21, 1982;

Tuesday, June 22, 1982

Times: 0830-1600 hours on June 21, 1982

(Closed); 0830-1600 hours on June 22, 1982 (Closed)

Place: The Pentagon, Washington, D.C. in Room 2E715B

Agenda: The Army Science Board Ad Hoc Subgroup conducting a study on Ballistic Missile Defense will meet to receive classified briefings, present progress briefings, and hold discussions of same. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-13953 Filed 5-20-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Date of Meeting: Thursday, June 24, 1982;

Friday, June 25, 1982

Times: 0830-1700 hours on June 24, 1982
(Closed); 0830-1600 hours on June 25, 1982
(Closed)

Place: The Pentagon, Washington, D.C. (exact location to be determined)

Agenda: The Army Science Board 1982 Summer Study Group on Science and Engineering Personnel will meet for a Plenary Session of classified briefings and discussions and then break up into the three working groups for this effort: 1) Civilian Engineers, 2) Civilian Scientists, and 3) Uniformed Scientists and Engineers. The Summer Study addresses the Army's problem of recruiting, retaining, and maintaining a reasonably balanced age profile of civilian S&E personnel. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C. specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

FR Doc. 82-13954 Filed 5-20-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Morris Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Morris Oil Company, P.O. Box 1029, Columbia, Mississippi 39429. This Proposed Remedial Order charges Morris Oil Company with pricing violations in the amount of \$166,005.88 connected with the sales of motor gasoline during the period July 1, 1979 through September 30, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mr. William R. Gibson, Deputy Director, Atlanta Office, Economic Regulatory Administration, 1655 Peachtree Street, NW., Atlanta, Georgia 30309, Telephone (404) 881-2861. On or before June 7, 1982 any aggrieved person may file a Notice of Objection with the U.S. Department of Energy, Office of Hearings and Appeals, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia on the 12th day of May 1982.

Leonard F. Bittner,
Director, Atlanta Office, Economic Regulatory Administration.

Concurrence:

Susan P. Tate,
Deputy Regional Counsel.

[FR Doc. 82-13964 Filed 5-20-82; 8:45 am]

BILLING CODE 6450-01-M

[Case No. 64OC 00390]

Signal Petroleum; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Signal Petroleum and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by: June 21, 1982.

ADDRESS: Send comments to: Thomas A. Fry, III, Director, Houston Office, Economic Regulatory Administration One Allen Center, 500 Dallas Avenue, Suite 660, Houston, Texas 77002.

FOR FURTHER INFORMATION CONTACT: Thomas A. Fry, III, Director, Houston Office, Economic Regulatory Administration, One Allen Center, 500 Dallas Avenue, Suite 660, Houston, Texas 77002, (713) 226-5421.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On April 29, 1982, the ERA executed a proposed Consent Order with Signal Petroleum of Metairie, Louisiana. Under 10 CFR 205.199(b), a proposed Consent Order which involves the sum of \$500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the Federal Register requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Signal Petroleum, with its home office located in Metairie, Louisiana, is a firm engaged in the production and sale of domestic crude oil, and was subject to

the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, and 212 in connection with Signal's transactions involving domestic crude oil during the period of federal price controls, the ERA and Signal Petroleum entered into a Consent Order, the significant terms of which are as follows:

A. During the period covered by the Consent Order, Signal produced and sold domestic crude oil. ERA has asserted that Signal was a producer, as that term was defined in the Regulations.

B. The ERA has alleged that Signal sold crude oil at prices in excess of the applicable ceiling or maximum lawful selling prices in violation of the Regulations.

C. The execution of this Consent Order constitutes neither an admission by the company nor a finding by DOE of any violation by the company of any statute or regulation.

II. Refunds

Disposition of Refunds

Under this Consent Order, Signal will pay within 30 days of the effective date of this Consent Order the sum of \$1,500,000.00 including interest to DOE for deposit in the U.S. Treasury for ultimate disposition by DOE in accordance with applicable laws and regulations. Upon full satisfaction of the terms and conditions of this Consent Order by Signal Petroleum, the DOE releases Signal from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Signal Petroleum Consent Order". The ERA will consider all comments it receives by 4:30 p.m. local time, June 21, 1982. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 10th day of May 1982.

Thomas A. Fry, III,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 82-13963 Filed 5-20-82; 8:45 am]

BILLING CODE 6450-01-M

Spencer Companies, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to The Spencer Companies, Inc., P.O. Box 45, Huntsville, Alabama 35804. This Proposed Remedial Order charges The Spencer Companies, Inc., with pricing violations in the amount of \$126,755.48 connected with the sales of refined petroleum products during the period January 19, 1979 through December 31, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mr. William R. Gibson, Deputy Director, Atlanta Office, Economic Regulatory Administration, 1655 Peachtree Street, NW., Atlanta, Georgia 30309, Telephone (404) 881-2661. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the U.S. Department of Energy, Office of Hearings and Appeals, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia on the 12th day of May 1982.

Leonard F. Bittner,

Director, Atlanta Office, Economic Regulatory Administration.

Concurrence:

Susan P. Tate,

Deputy Regional Counsel.

[FR Doc. 82-13965 Filed 5-20-82; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Change of Public Hearing

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of change of date of Public Hearing.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy solicited comments concerning proposed changes to the Petroleum Supply Data Collection forms.

In an effort to maximize public participation in the revision of these forms, EIA proposed to conduct a public hearing on Thursday, May 27, 1982, and continued on Friday, May 28, 1982, if necessary, in the Forrestal Building, 1000 Independence Avenue, S.W.,

Washington, D.C. 20585, beginning at 9:00 a.m. (e.s.t.). This public hearing has been changed to Thursday June 10, 1982, beginning at 9:00 a.m. (e.s.t.) and will be held in the Forrestal Building, Room 1E-245. The reason for this change is to allow the various concerned individuals more opportunity to adequately respond to this request.

Correction

In Federal Register notice Volume 47, number 79, Friday, April 23, 1982, on page 17614 make the following changes.

1. On page 17614, third column the date for the public hearing of May 27 and 28, 1982, is changed to June 10, 1982.

2. On page 17614, third column the date to provide oral testimony is changed from May 7, 1982, to May 27, 1982, and a copy of the presentation will be due no later than 4:30 p.m. on June 7, 1982.

3. On page 17614, third column the date to provide only written comments is change from May 21, 1982, to June 7, 1982. The following are the correct dates:

DATES: Those wishing to provide oral testimony at the public hearing must request to speak at the hearing no later than 4:30 p.m. Friday, May 27, 1982 and must submit a copy of their presentation to the Energy Information Administration by 4:30 p.m. Monday, June 7, 1982 at the latest.

Those wishing only to provide written comments must submit a copy of these comments to the Energy Information Administration by 4:30 p.m. Friday, June 7, 1982 at the latest.

ADDRESS: Send comments, requests to speak at the hearing, and written presentation to: Special Projects Manager, EI-422, Mail Stop 2H-058, Office of Oil and Gas, Energy Information Administration, Washington D.C. 20585.

FOR FURTHER INFORMATION OR COPIES OF REVISED FORMS AND INSTRUCTIONS CONTACT:

Gary L. Oleson or Paul Chapman, EI-422, Mail Stop 2H-058, Office of Oil and Gas, Energy Information Administration, Washington, D.C., 20585, Telephone: 202-252-9884.

Issued in Washington, D.C. on May 18, 1982.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 82-14021 Filed 5-20-82; 8:45 am]

BILLING CODE 6450-01-M

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) the Department of Energy (DOE) notices of proposed collections under review will be published in the Federal Register on the Thursday of the week following their submission to the office of Management and Budget (OMB). Following this notice is a list of DOE proposals sent to OMB for approval between April 23, 1982, and May 20, 1982.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory; voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the forms; (9) A Brief abstract describing the proposed collection.

FOR FURTHER INFORMATION CONTACT: John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 7413, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-9464.

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395-7340.

Anita Ducca, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503. (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should also be provided Mr.

Goss. If you anticipate commenting on a form, but find that time to prepare will prevent you from submitting comments

promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., May 17, 1982.
Yvonne M. Bishop,
Director, Statistical Standard, Energy
Information Administration.

DEPARTMENT OF ENERGY FORMS UNDER REVIEW BY OMB

| Form No. | Form title | Type of request | Response frequency | Response description | Respondent description | Estimated number of respondents | Annual respondent burden | Abstract |
|---------------------------|--|-----------------------|-----------------------------------|----------------------|--|---------------------------------|--------------------------|---|
| (1) EIA | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) |
| ● EIA-412 | Annual report of publicly owned electric utilities. | New | Annual | Mandatory | Publicly owned electric utilities. | 210 | 9593 | Form EIA-412 will collect information on investments, costs, facilities, planning, and operations of publicly owned electric utilities. The data are used in Department of Energy publications, studies and analyses. Data collection will begin upon OMB approval. |
| ● EIA-767(2) ¹ | Steam-electric plant air and water quality control data. | New | Annual | Mandatory | Steam-electric powerplants. | 779 | 28823 | Data are used to identify environmental impacts of energy policy plans, to evaluate water usage, to perform environmental assessments and as input in the survey of current business. |
| ERA | | | | | | | | |
| ● ERA-766R | Recordkeeping requirements applicable to the general allocation and price rules. | Extension no change. | N/A, record-keeping requirements. | Mandatory | Firms subject to petroleum allocation and price rules. | 350 | 7000 | Companies subject to the General Allocation and Price Rules (10 CFR 211 and 212) must maintain in their records information sufficient to demonstrate their compliance with these regulations. |
| FERC | | | | | | | | |
| ● FERC-533 | Gas producer rates: special relief petition. | Reinstatement | On occasion. | Mandatory | Natural gas producers. | 70 | 5600 | To allow FERC to review producer claims for special relief to facilitate production of natural gas. |
| ● FERC-542 | Purchased gas adjustment audits/initial rate/rate change and tracking report. | Extension, no change. | On occasion. | Mandatory | Natural gas pipeline and local gas distribution companies. | 60 | 371200 | Required to monitor compliance with Sections 4, and 16 of the Natural Gas Act. |
| ● FERC-547 | Gas pipeline rates: refund obligation. | Extension, no change. | On occasion. | Mandatory | Natural gas pipeline companies. | 37 | 40000 | Reports all filed to ensure compliance with the Natural Gas Policy Act and the correct refunding of amounts which were paid in the interim collection process. |
| ● FERC-549 | Natural Gas Policy Act (NGPA) title III transactions. | Extension, no change. | On occasion. | Mandatory | Natural gas pipelines and local distribution companies. | 125 | 2400 | Data are required to assure compliance with regulations concerning transportation and sales transactions in accordance with Title III of the NGPA. |
| ● FERC-576 | Report by certain natural gas companies of emergency conditions. | New | On occasion. | Mandatory | Natural gas companies. | 16 | 48 | Used to monitor emergencies and potential supply interruptions. |
| ● EIA-767(1) ¹ | Steam-electric plant air and quality control data. | Reinstatement | Annual | Mandatory | Steam-electric powerplants. | 779 | 27265 | Data are collected to monitor air emission and water quality data to evaluate fuel use in rate proceedings. |

¹ EIA-767 is a form jointly sponsored by the Energy Information Administration, the Federal Energy Regulatory Commission and the Environmental Protection Agency. The forms are shown separately in order to reflect the burden shares of the sponsors. The total burden for the EIA-767 is 72,000 hours. EPA will submit a separate request to OMB for its share of the respondent burden (15,912 hours).

[FR Doc. 82-13918 Filed 5-20-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ST80-260-001]

Transok Pipe Line Co.; Extension Reports

May 17, 1982.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a

self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a

transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before June 9, 1982 file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or

1.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the

protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition

to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

| Docket No. | Transporter/seller | Recipient | Date filed | Part 284 subpart | Effective date |
|--------------|---|--------------------------------------|---------------|------------------|----------------|
| ST80-260-001 | Transok Pipe Line Co., P.O. Box 3008, Tulsa, OK 74101. | Michigan Wisconsin Pipe Line Co. | Apr. 19, 1982 | C | July 21, 1982 |
| ST80-270-001 | Michigan Consolidated Gas Co., One Woodward Avenue, Detroit, MI 48226. | United Gas Pipe Line Co. | Apr. 21, 1982 | G(HS) | Do. |
| ST80-272-001 | Mountain Fuel Supply Co., P.O. Box 11368, Salt Lake City, UT 84139. | Colorado Interstate Gas Co. | Apr. 30, 1982 | G | July 29, 1982. |
| ST80-308-001 | Michigan Wisconsin Pipe Line Co., One Woodward Avenue, Detroit, MI 48226. | Michigan Consolidated Gas Co. | Apr. 22, 1982 | B | July 3, 1982. |
| ST80-311-001 | Texas Eastern Transmission Corp., P.O. Box 2521, Houston, TX 77252. | Transcontinental Gas Pipe Line Corp. | Apr. 29, 1982 | G | July 31, 1982. |
| ST81-14-001 | Mountain Fuel Supply Co., P.O. Box 11368, Salt Lake City, UT 84139. | Colorado Interstate Gas Co. | Apr. 30, 1982 | do | Oct. 13, 1982. |
| ST81-35-001 | do | do | Apr. 29, 1982 | do | July 26, 1982. |
| ST81-414-001 | do | do | Apr. 26, 1982 | do | Aug. 13, 1982. |

[FR Doc. 82-13833 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

| JD NO | JA DKT | AFI NO | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROC | PURCHASER |
|-----------|------------------------|------------|--------|--------------------|------------------------------|-----------------------|-------|-------------------|
| -C F | LAWRENCE & ASSOC INC | 4237100000 | 102-4 | RECEIVED: 04/22/82 | IRT "73" #1 RRC ID#97348 | MAYLAW (WOLFCAMP BASA | 0.0 | ADOBEE GAS CO |
| 8228946 | F-08-049425 | 4237100000 | 102-2 | RECEIVED: 04/22/82 | CHAD #1 | GIDDINGS AUSTIN CHALK | 365.0 | PHILLIPS PETROLEU |
| 8228675 | F-03-042350 | 4205131668 | 103 | RECEIVED: 04/22/82 | OATES #2-T | BOONSVILLE (BEND CONG | 100.0 | NATURAL GAS PIPEL |
| -CARTER | FOUNDATION PRDND CO | 4249732233 | 103 | RECEIVED: 04/22/82 | PURE-WALTON #38 | KEYSTONE (COLBY) | 18.0 | SID RICHARDSON GA |
| 8228983 | F-08-049534 | 4249531430 | 103 | RECEIVED: 04/22/82 | PURE-WALTON #39 | KEYSTONE (COLBY) | 98.0 | SID RICHARDSON GA |
| 8228984 | F-08-049535 | 4249531431 | 103 | RECEIVED: 04/22/82 | PURE-WALTON #40 | KEYSTONE (COLBY) | 104.0 | SID RICHARDSON GA |
| 8228985 | F-08-049536 | 4249531429 | 103 | RECEIVED: 04/22/82 | EUGENE HASCHKE #1 | GIDDINGS (AUSTIN CHAL | 284.0 | PHILLIPS PETROLEU |
| -CHAMPLIN | EXPLORATION INC | 4214930571 | 102-2 | RECEIVED: 04/22/82 | RIGHTMER "D" #1 | GIDDINGS (AUSTIN CHAL | 1.0 | PHILLIPS PETROLEU |
| 8228756 | F-03-047039 | 4214930571 | 102-2 | RECEIVED: 04/22/82 | ANNICE POPE #1 | ANITA (CLEARFORK) | 0.0 | |
| 8228757 | F-03-047101 | 421493095A | 103 | RECEIVED: 04/22/82 | BAILEY SHEPPARD #2 | E EASON | 362.0 | HYDROCARBON TRANS |
| -CHAMPLIN | PETROLEUM COMPANY | 4221933238 | 103 | RECEIVED: 04/22/82 | C D HENRY #2 | GIDDINGS (AUSTIN CHAL | 0.0 | FERGUSON CROSSING |
| 8228683 | F-8A-043219 | 4221933238 | 103 | RECEIVED: 04/22/82 | CARRIE PAYNE #1 | GIDDINGS | 0.0 | FERGUSON CROSSING |
| 8228749 | F-06-046762 | 4240330764 | 107-TF | RECEIVED: 04/22/82 | CARTHAGE GAS UNIT 10 #5 | CARTHAGE | 0.0 | TENNESSEE GAS PIP |
| 8228724 | F-03-045761 | 4205100000 | 102-2 | RECEIVED: 04/22/82 | FRANCES MATCEK #1 | GIDDINGS (AUSTIN CHAL | 0.0 | FERGUSON CROSSING |
| 8228639 | F-03-039219 | 4205100000 | 103 | RECEIVED: 04/22/82 | G P WARDNER #153 | STRAITON (G-17) | 300.0 | TENNESSEE GAS PIP |
| 8228632 | F-06-038267 | 4236500000 | 102-2 | RECEIVED: 04/22/82 | J E WATSON #3 | CONGER SW (PENN) | 0.0 | NORTHERN NATURAL |
| 8228723 | F-03-045759 | 4205100000 | 102-4 | RECEIVED: 04/22/82 | MCNEE UNIT #20 | CARTHAGE | 17.0 | TENNESSEE GAS PIP |
| 8228951 | F-24-049441 | 4227331552 | 102-2 | RECEIVED: 04/22/82 | W E MCLAUGHLIN JR #1 | ANITA (CLEARFORK) | 40.0 | |
| 8228754 | F-08-046947 | 4243311072 | 103 | RECEIVED: 04/22/82 | SACROC UNIT #140-3 | KELLY-SNYDER | 44.0 | EL PASO NATURAL G |
| 8228652 | F-06-039865 | 4236500000 | 108 | RECEIVED: 04/22/82 | SACROC UNIT #61-6 | KELLY-SNYDER | 17.0 | EL PASO NATURAL G |
| 8228753 | F-8A-046944 | 4221933184 | 103 | RECEIVED: 04/22/82 | SACROC UNIT 20-12 | KELLY-SNYDER | 48.0 | EL PASO NATURAL G |
| -CHEVRON | U S A INC | 4241832074 | 103 | RECEIVED: 04/22/82 | VEST RANCH #17 | ARENOSO (STRAWN DETRI | 55.0 | PHILLIPS PETROLEU |
| 8228993 | F-8A-049581 | 4241832074 | 103 | RECEIVED: 04/22/82 | DAVIDSON A-1 | CHENEYBORO (COTTON VA | 20.0 | CAMPEON PIPELINE |
| 8228994 | F-8A-049582 | 4241532100 | 103 | RECEIVED: 04/22/82 | FRANK MATCEK UNIT #1 | GIDDINGS (AUSTIN CHAL | 0.0 | VALERO TRANSMISSI |
| 8228694 | F-8A-044197 | 4241531964 | 103 | RECEIVED: 04/22/82 | GOLD-PIWONKA UNIT #1 | GIDDINGS (AUSTIN CHAL | 0.0 | VALERO TRANSMISSI |
| 8228718 | F-08-045470 | 4249531385 | 103 | RECEIVED: 04/22/82 | PIWONKA-MATCEK UNIT #1 | GIDDINGS (AUSTIN CHAL | 0.0 | VALERO TRANSMISSI |
| -CITIES | SERVICE COMPANY | 4234931732 | 102-2 | RECEIVED: 04/22/82 | CONTINENTAL TXL #1 ID #95492 | CENTRAL PINAL DOME (W | 310.6 | TRANSCONTINENTAL |
| 8228792 | F-05-048161 | 4234931732 | 103 | RECEIVED: 04/22/82 | N J CHITTIM #4359 | SACATOSA (SAN MIGUEL | 0.7 | VALERO TRANSMISSI |
| -CLAYTON | W WILLIAMS JR | 4205100000 | 102-2 | RECEIVED: 04/22/82 | N J CHITTIM #615 | SACATOSA (SAN MIGUEL | 0.7 | VALERO TRANSMISSI |
| 8228703 | F-03-044548 | 4205100000 | 103 | RECEIVED: 04/22/82 | N J CHITTIM #616 | SACATOSA (SAN MIGUEL | 0.7 | VALERO TRANSMISSI |
| 8228696 | F-03-044220 | 4205100000 | 102-2 | RECEIVED: 04/22/82 | N J CHITTIM #6940 | SACATOSA (SAN MIGUEL | 0.7 | VALERO TRANSMISSI |
| 8228715 | F-03-045387 | 4205100000 | 102-2 | RECEIVED: 04/22/82 | N J CHITTIM #6942 | SACATOSA (SAN MIGUEL | 0.7 | VALERO TRANSMISSI |
| -CONOCO | INC | 4230330222 | 102-2 | RECEIVED: 04/22/82 | N J CHITTIM #6943 | SACATOSA (SAN MIGUEL | 0.7 | VALERO TRANSMISSI |
| 8228752 | F-08-046912 | 4230330222 | 103 | RECEIVED: 04/22/82 | EAKIN "B" #1 | EASTLAND COUNTY REGUL | 0.0 | SOUTHWESTERN GAS |
| 8228925 | F-01-049375 | 4232331662 | 103 | RECEIVED: 04/22/82 | STANDEFER #1 | SPRAYBERRY (TREND ARE | 16.0 | PHILLIPS PETROLEU |
| 8228923 | F-01-049373 | 4232331660 | 103 | RECEIVED: 04/22/82 | STEWART-ALLAR #1 | SPRAYBERRY (TREND ARE | 14.0 | PHILLIPS PETROLEU |
| 8228924 | F-01-049374 | 4232331661 | 103 | RECEIVED: 04/22/82 | DIAL 1-58 | FARNSWORTH S E (HORRO | 72.0 | PHILLIPS PETROLEU |
| 8228926 | F-01-049376 | 4232331663 | 103 | RECEIVED: 04/22/82 | R R CRAWFORD #2 | BOONSVILLE | 50.0 | NATURAL GAS PIPEL |
| 8228922 | F-01-049372 | 4232331664 | 103 | RECEIVED: 04/22/82 | | | | |
| 8228911 | F-01-049346 | 4232331665 | 103 | RECEIVED: 04/22/82 | | | | |
| 8228910 | F-01-049345 | 4232331669 | 103 | RECEIVED: 04/22/82 | | | | |
| -CORDOVA | RESOURCES INC | 4213333097 | 103 | RECEIVED: 04/22/82 | | | | |
| 8228781 | F-7B-047914 | 4213333097 | 103 | RECEIVED: 04/22/82 | | | | |
| -COTTON | PETROLEUM CORPORATION | 4231732257 | 103 | RECEIVED: 04/22/82 | | | | |
| 8228738 | F-08-046362 | 4231732257 | 103 | RECEIVED: 04/22/82 | | | | |
| 8228737 | F-08-046352 | 4231732256 | 103 | RECEIVED: 04/22/82 | | | | |
| -COURSON | OIL & GAS INC | 4235731159 | 103 | RECEIVED: 04/22/82 | | | | |
| 8228713 | F-1C-045311 | 4235731159 | 103 | RECEIVED: 04/22/82 | | | | |
| -CROWN | CENTRAL PETROLEUM CORP | 4249700000 | 103 | RECEIVED: 04/22/82 | | | | |
| 8228820 | F-09-048702 | 4249700000 | 103 | RECEIVED: 04/22/82 | | | | |

FIELD NAME -----
PROC PURCHASER -----

SEC(1) SEC(2) WELL NAME -----
API NO -----

JA DKT -----
JA NO -----

| JD NO | JA DKT | API NO | SEC(1) | SEC(2) | WELL NAME | RECEIVED: | JA: | TX | FIELD NAME | PROC | PURCHASER |
|-----------------------------------|-------------|------------|--------|--------|-----------|-----------|---|--------|-----------------------|-------|-------------------|
| -D H HUNT | | | | | | | | | ARNECKEVILLE (FRIO 26 | 205.0 | TEXAS EASTERN TRA |
| 822653 | F-02-035871 | 421231110 | | | 04/22/82 | 102-4 | JOSHILIN DIEBEL GAS UNIT #2 | JA: TX | WILLOW SPRINGS/COTTON | 100.0 | UNITED GAS PIPE L |
| -DALCO PETROLEUM U S LTD | | | | | | | | | CLAY N E (AUSTIN CHAL | 0.0 | CLAJON GAS CO |
| 822817 | F-05-035722 | 4218330457 | | | 04/22/82 | 103 | 107-TF WILLIE MAE ATKINSON #1 RRC #094134 | JA: TX | CLAY N E (AUSTIN CHAL | 0.0 | CLAJON GAS CO |
| -DALCO RESOURCES | | | | | | | | | CLAY NE (EDWARDS LIME | 365.0 | CLAJON GAS CO |
| 822833 | F-03-038396 | 4205131069 | | | 04/22/82 | 102-2 | MABEL WILKINS #3 | JA: TX | BRAVO WILCOX (9750) | 365.0 | VALERO TRANSMISSI |
| 8228710 | F-03-044924 | 4204100000 | | | 04/22/82 | 102-4 | TERRELL #1 | JA: TX | DEWEY LAKE (FUSSELMAN | 600.0 | EL PASO NATURAL G |
| 8228610 | F-03-032707 | 4251000000 | | | 04/22/82 | 103 | WILKINS #1-U | JA: TX | WILDCAT | 23.0 | SOUTHWESTERN GAS |
| -DAVIS OIL COMPANY | | | | | | | | | OZONA | 0.0 | NORTHERN NATURAL |
| 8228618 | F-04-035960 | 4213134796 | | | 04/22/82 | 102-4 | BRAVO "A" #1 | JA: TX | SUNSHINE FIELD (RODES | 0.0 | ETEXAS PRODUCERS |
| 8228336 | F-08-048867 | 4217331107 | | | 04/22/82 | 102-4 | LOIS BLALOCK #1 | JA: TX | STEPHENS COUNTY REGUL | 2.7 | WARREN PETROLEUM |
| -DEEP RIVER GAS & OIL EXPL CO INC | | | | | | | | | BRITTANY SE (STRAWN) | 2.2 | WARREN PETROLEUM |
| 8228680 | F-78-042771 | 4236332154 | | | 04/22/82 | 102-4 | ANNIE WALKER #1 | JA: TX | STEPHENS COUNTY REGUL | 6.8 | WARREN PETROLEUM |
| 8228650 | F-7C-039818 | 4210500000 | | | 04/22/82 | 103 | 107-TF HENDERSON "A" #2 | JA: TX | UNION HILL (STRAWN) | 18.0 | WARREN PETROLEUM |
| 8228682 | F-06-043161 | 4242300000 | | | 04/22/82 | 102-2 | WASHINGTON #1 | JA: TX | NEARBURG | 96.0 | |
| -DELTA OIL & GAS CO | | | | | | | | | BIG SPRING | 115.0 | |
| 8228914 | F-7B-049356 | 4242900000 | | | 04/22/82 | 108 | A R KNIGHT "A" RRC #67573 | JA: TX | BRADFORD | 128.0 | |
| 8228920 | F-7B-049369 | 4242900000 | | | 04/22/82 | 108 | A R KNIGHT "B" RRC #72262 | JA: TX | DIVERSE (CONGL) | 9.0 | DELHI GAS PIPELIN |
| 8228919 | F-7B-049368 | 4242900000 | | | 04/22/82 | 108 | JOE JACKSON RRC #75748 | JA: TX | WATSON (CONGL) | 10.0 | DELHI GAS PIPELIN |
| 8228974 | F-7B-049494 | 4242900000 | | | 04/22/82 | 108 | ROBERTA TUTTLE RRC #80799 | JA: TX | WEST PANHANDLE | 31.0 | NORTHERN NATURAL |
| 8229070 | F-7B-049648 | 4242900000 | | | 04/22/82 | 108 | ROBERTA TUTTLE RRC #92343 | JA: TX | TALLY (STRAWN) | 0.0 | FAGADAU ENERGY CO |
| -DIAMOND SHAMROCK CORPORATION | | | | | | | | | TALLY (STRAWN) | 0.0 | FAGADAU ENERGY CO |
| 8228733 | F-08-046212 | 4222732403 | | | 04/22/82 | 102-2 | H T BIRKHEAD #2-14 | JA: TX | LONGWOOD (GOODLAND LI | 48.0 | ARKANSAS LOUISIAN |
| 8228716 | F-08-045417 | 4222732439 | | | 04/22/82 | 103 | ROYCE WALKER #1-2 | JA: TX | DURANGO (COOK) | 182.0 | LONE STAR GAS CO |
| 8228772 | F-10-047664 | 4229531042 | | | 04/22/82 | 103 | VIOLA M STALLINGS #3-813 | JA: TX | GIDDINGS (AUSTIN CHAL | 36.0 | FERGUSON CROSSING |
| -DIVERSE ENERGY INC | | | | | | | | | PERRIN RANCH (4890 CO | 0.0 | LONE STAR GAS CO |
| 8228835 | F-7B-048865 | 4244732676 | | | 04/22/82 | 102-4 | HARGROVE #1 | JA: TX | GRAFORD (BEND CONGL) | 0.0 | LONE STAR GAS CO |
| 8228834 | F-7B-048860 | 4244732852 | | | 04/22/82 | 102-4 | TEINERT-HARDIN "A" #1 | JA: TX | FOSTER (MARBLE FALLS) | 51.0 | ODESSA NATURAL CO |
| -DORCHESTER GAS PRODUCING CO | | | | | | | | | PANHANDLE EAST | 14.5 | EL PASO NATURAL G |
| 8228604 | F-10-001308 | 4217900000 | | | 04/22/82 | 108-ER | PINNELL #1 (24381) | JA: TX | SONORA (CANYON UPPER) | 18.0 | EL PASO NATURAL G |
| -DOUBLE EAGLE DRILLING CO | | | | | | | | | PANHANDLE EAST | 13.0 | EL PASO NATURAL G |
| 8228816 | F-09-048676 | 4207700000 | | | 04/22/82 | 103 | W B FULGHAM #2 (RR #21540) | JA: TX | PANHANDLE EAST | 24.3 | EL PASO NATURAL G |
| 8228815 | F-09-048675 | 4207700000 | | | 04/22/82 | 103 | W B FULGHAM #3 (RR #21540) | JA: TX | DRS (ELLEN) | 3.0 | BENGAL GAS TRANSH |
| 8228814 | F-09-048674 | 4207732489 | | | 04/22/82 | 103 | W B FULGHAM #4 (RR 21803) | JA: TX | | | |
| -DUKE OIL & GAS CO | | | | | | | | | | | |
| 8228663 | F-06-040930 | 4220300000 | | | 04/22/82 | 108 | BELL DANIELS "G" #4 | JA: TX | | | |
| -DURANGO OPERATING CO INC | | | | | | | | | | | |
| 8228813 | F-7B-048654 | 4205933331 | | | 04/22/82 | 102-4 | FRANK WINDHAM #1 | JA: TX | | | |
| -DYNAMIC PRODUCTION INC | | | | | | | | | | | |
| 8228646 | F-03-039441 | 4205131655 | | | 04/22/82 | 102-2 | COWEN "B" UNIT #2 | JA: TX | | | |
| -E D ANDERSON | | | | | | | | | | | |
| 8228821 | F-09-048703 | 4223700000 | | | 04/22/82 | 108 | L H CRANFORD #1 | JA: TX | | | |
| 8228822 | F-7B-048704 | 4223700000 | | | 04/22/82 | 108 | W L WOODWARD "A" #3 | JA: TX | | | |
| -EASTLAND WELL SERVICE INC | | | | | | | | | | | |
| 8228802 | F-7B-048403 | 4213330773 | | | 04/22/82 | 103 | W L CURTIS #3 (13726) | JA: TX | | | |
| -EL PASO NATURAL GAS COMPANY | | | | | | | | | | | |
| 8228991 | F-10-049578 | 4217930794 | | | 04/22/82 | 108 | BROWN B #1 | JA: TX | | | |
| 8228992 | F-7C-049580 | 4243532039 | | | 04/22/82 | 108 | DAVIS B #3 | JA: TX | | | |
| 8228636 | F-10-038633 | 4208730169 | | | 04/22/82 | 108 | WISCHKAEMPER H #1 | JA: TX | | | |
| 8228990 | F-10-049575 | 4208730169 | | | 04/22/82 | 108 | WISCHKAEMPER H #1 | JA: TX | | | |
| -ENRE CORP | | | | | | | | | | | |
| 8228755 | F-7B-046957 | 4213333219 | | | 04/22/82 | 103 | MITCHAM "E" #3 | JA: TX | | | |

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| JD NO | JA JAT | AFI NO | SEC(1) | SEC(2) | WELL NAME | RECEIVED: | FIELD NAME | PROL | PURCHASER |
|----------------|-----------------|------------|-----------|----------|--------------------------------|-----------|-----------------------|--------|-------------------|
| -ENSERCH | EXPLORATION INC | | | | | | ARNECKEVILLE | 13.0 | LONE STAR GAS CO |
| 8228966 | F-02-049459 | 4212300000 | RECEIVED: | 04/22/82 | J A: TX | 108 | WHELAN/TRAVIS PEAK PR | 20.0 | TEXAS EASTERN TRA |
| 8228982 | F-76-049533 | 4220300000 | 108 | | LOBA PURCELL #1 | | LAS TIENDAS/E (OLMOS) | 21.0 | LONE STAR GAS CO |
| 8228968 | F-04-049461 | 4247900000 | 108 | | T MIDDLETON F-3 | | ROSEWOOD (COTTON VALL | 30.0 | WESTERN GAS CORP |
| -EXCELSIOR | OIL CORP | | | | | | EMPEROR EAST (CLEAR F | 12.0 | TRANSWESTERN PIPE |
| 8228967 | F-06-049460 | 4245900000 | RECEIVED: | 04/22/82 | J A: TX | 103 | MENDOTA NW (DOUGLAS L | 20.0 | PHILLIPS PETROLEU |
| -EXXON | CORPORATION | | | | | | FULLERTON | 15.0 | PHILLIPS PETROLEU |
| 8228751 | F-08-046897 | 4249500000 | 103 | | BROWN-ALTMAN B #2 | | SAND HILLS (JUDKINS) | 5.0 | EL PASO NATURAL G |
| 8228830 | F-10-048776 | 4221131389 | 103 | | FLOWERS TRUST A #5 | | SAND HILLS (JUDKINS) | 7.0 | EL PASO NATURAL G |
| 8228765 | F-08-047552 | 4200332946 | 103 | | FULLERTON CLEARFORK UNIT #2433 | | MEANS | 15.0 | PHILLIPS PETROLEU |
| 8228805 | F-08-068466 | 4200332964 | 103 | | FULLERTON CLEARFORK UNIT #2539 | | ROBERTSON N (CLEARFOR | 15.0 | PHILLIPS PETROLEU |
| 8228916 | F-08-049360 | 4236100000 | 108 | | J B TUBB A/C 1 #15 | | TRAWICK (TRAVIS PEAK) | 150.0 | ARMCO STEEL CORP |
| 8228856 | F-08-049167 | 4210300000 | 108 | | J C TUBB A/C 1 #2 | | ROBERTSON NE (PETTII) | 36.5 | ARMCO STEEL CORP |
| 8228684 | F-08-043498 | 4200332781 | 103 | | MEANS/SAN ANDRES/UNIT #362 | | WEBSTER | 56.0 | HOUSTON PIPELINE |
| 8228791 | F-0A-048146 | 4216533227 | 103 | | ROBERTSON CLEARFORK UNIT #7303 | | WEBSTER | 360.0 | HOUSTON PIPELINE |
| 8228804 | F-8A-048465 | 4216531226 | 103 | | ROBERTSON CLEARFORK UNIT #9501 | | FOUR J (CONGL 3650*) | 60.0 | WARREN PETROLEUM |
| *8228793 | F-06-048170 | 4234730519 | 103 | | TRAWICK GAS UNIT 60 1L | | PALO PINTO CO REG (GA | 50.0 | BRAZOS FUEL CO IN |
| *8228823 | F-06-048717 | 4240131262 | 102-4 | | V TURNER "A" OIL UNIT #1-1 | | CARGIF (STRAWN) | 2316.0 | MID-STATES GAS CO |
| *8228975 | F-03-049504 | 4220100000 | 103 | | WEBSTER FIELD UNIT #0160 | | GIDDINGS (AUSTIN CHAL | 36.5 | FERGUSON CROSSING |
| 8228909 | F-03-049343 | 4220131284 | 103 | | WEBSTER FIELD UNIT #1320 | | BROWN COUNTY REGULAR | 53.0 | ODESSA NATURAL CO |
| -FAGADAU | ENERGY CORP | | | | | | BETHANY (PETTII-FURRH | 190.0 | UNITED GAS PIPELI |
| 8228936 | F-7B-049390 | 4242933084 | RECEIVED: | 04/22/82 | J A: TX | 102-4 | PANHANDLE | 0.1 | CABOT PIPELINE CO |
| 8228935 | F-7B-069389 | 4236332804 | 103 | | CURRY ESTATE "A" #1 RRC #18103 | | DUNE | 0.0 | WARREN PETROLEUM |
| -FAIR & MCGAHA | | | | | | | DUNE | 0.0 | WARREN PETROLEUM |
| 8228935 | F-7B-069389 | 4236332804 | 103 | | D L HART 15-S RRC #97459 | | OLIVER POINT S (3950* | 365.0 | DOM CHEMICAL |
| -FARGO | ENERGY CORP | | | | | | EL GATO | 382.0 | TRANSCONTINENTAL |
| 8228940 | F-03-049401 | 4205131953 | RECEIVED: | 04/22/82 | J A: TX | 102-2 | FLOWERS (CANYON SAND) | 2.0 | CITIES SERVICE CO |
| -FLOYD | ISON | | | | | | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| 8228740 | F-7B-046499 | 4204932382 | RECEIVED: | 04/22/82 | J A: TX | 103 | FLOWERS (CANYON SAND) | 2.0 | CITIES SERVICE CO |
| -FRANKS | PETROLEUM INC | | | | | | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| 8228833 | F-06-048793 | 4236531228 | RECEIVED: | 04/22/82 | J A: TX | 102-4 | FLOWERS (CANYON SAND) | 2.0 | CITIES SERVICE CO |
| -G C HERRMANN | CO | | | | | | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| 8228825 | F-10-048736 | 4217931052 | RECEIVED: | 04/22/82 | J A: TX | 103 | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| -GENERAL | AMERICAN OIL | | | | | | FLOWERS (CANYON SAND) | 2.0 | CITIES SERVICE CO |
| 8228712 | F-08-045296 | 4210332643 | RECEIVED: | 04/22/82 | J A: TX | 103 | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| 8228711 | F-08-045295 | 4210332641 | RECEIVED: | 04/22/82 | J A: TX | 103 | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| -GENESIS | PETROLEUM CORP | | | | | | FLOWERS (CANYON SAND) | 2.0 | CITIES SERVICE CO |
| 8228750 | F-03-046871 | 4232100000 | RECEIVED: | 04/22/82 | J A: TX | 103 | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| -GETTY | OIL COMPANY | | | | | | FLOWERS (CANYON SAND) | 2.0 | CITIES SERVICE CO |
| 8228677 | F-04-042546 | 4249732693 | RECEIVED: | 04/22/82 | J A: TX | 102-4 | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| 8228962 | F-7B-049453 | 4243331281 | RECEIVED: | 107-TF | EL GATO #1 | 103 | FLOWERS (CANYON SAND) | 2.0 | CITIES SERVICE CO |
| 8228955 | F-7B-049457 | 4243331282 | 103 | | FLOWERS CANYON SAND UNIT #199 | | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| 8228964 | F-7B-049456 | 4243331328 | 103 | | FLOWERS CANYON SAND UNIT #201 | | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| 8228963 | F-7B-049455 | 4243331337 | 103 | | FLOWERS CANYON SAND UNIT #202 | | FLOWERS (CANYON SAND) | 2.0 | CITIES SERVICE CO |
| 8228951 | F-7B-049452 | 4243331345 | 103 | | FLOWERS CANYON SAND UNIT #203 | | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| 8228959 | F-7B-049450 | 4243331338 | 103 | | FLOWERS CANYON SAND UNIT #204 | | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| 8228958 | F-7B-049449 | 4243331344 | 103 | | FLOWERS CANYON SAND UNIT #205 | | FLOWERS (CANYON SAND) | 2.0 | CITIES SERVICE CO |
| 8228957 | F-7B-049448 | 4243331371 | 103 | | FLOWERS CANYON SAND UNIT #206 | | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| 8228956 | F-7B-049447 | 4243331374 | 103 | | FLOWERS CANYON SAND UNIT #207 | | FLOWERS (CANYON SAND) | 1.0 | CITIES SERVICE CO |
| 8228950 | F-7B-049451 | 4243331373 | 103 | | FLOWERS CANYON SAND UNIT #208 | | FLOWERS (CANYON SAND) | 5.0 | CITIES SERVICE CO |
| 8228955 | F-7B-049446 | 4243331392 | 103 | | FLOWERS CANYON SAND UNIT #209 | | FLOWERS (CANYON SAND) | 3.0 | CITIES SERVICE CO |
| 8228954 | F-7B-049445 | 4243331397 | 103 | | FLOWERS CANYON SAND UNIT #210 | | FLOWERS (CANYON SAND) | 2.0 | CITIES SERVICE CO |
| 8228953 | F-7B-049444 | 4243331403 | 103 | | FLOWERS CANYON SAND UNIT #211 | | FLOWERS (CANYON SAND) | 4.0 | CITIES SERVICE CO |

| JD NO | JA DKT | API NO | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|-------------------------------------|-------------|------------|-----------|------------------------------------|-----------------------|------------|-------------------|-----------|
| 8228689 | F-03-043716 | 4205100000 | 102-2 | H C LEWIS #1 | GIDDINGS (AUSTIN CHAL | 0.0 | FERGUSON CROSSING | |
| 8228700 | F-03-044448 | 4205100000 | 102-2 | J L HALL #1 | GIDDINGS (AUSTIN CHAL | 0.0 | FERGUSON CROSSING | |
| 8228679 | F-03-042716 | 4205100000 | 102-2 | J M ORSAG #1 | GIDDINGS (AUSTIN CHAL | 90.0 | FERGUSON CROSSING | |
| 8228706 | F-03-044737 | 4205100000 | 102-2 | M G HOLUBEC #1 | GIDDINGS (AUSTIN CHAL | 0.0 | FERGUSON CROSSING | |
| 8228730 | F-03-046171 | 4205100000 | 102-2 | W H GIESENSCHLAG #E# #1 | GIDDINGS (AUSTIN CHAL | 0.0 | FERGUSON CROSSING | |
| 8228705 | F-03-044734 | 4205100000 | 102-2 | W H GIESENSCHLAG #F# UNIT #1 | GIDDINGS (AUSTIN CHAL | 0.0 | FERGUSON CROSSING | |
| -GO OIL CORP. | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228790 | F-09-048122 | 4223700000 | 108 | SALTER #1-T (TD NO 28517) | DEES (ATOKA CONGLOMER | 0.0 | LONE STAR GAS CO | |
| -60-TEX OIL & GAS CO | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228624 | F-04-036950 | 4224931170 | 102-4 | OTTO J SEIDEL #1 | MADE CITY (1550#) | 120.0 | UNITED GAS PIPE L | |
| -GRACE PETROLEUM CORPORATION | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228662 | F-05-040907 | 4228900000 | 102-4 | BLAZEK GAS UNIT #1 | BEARGRASS | 0.0 | | |
| -GRAHAM PRODUCTION CO | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228976 | F-03-049916 | 4248132231 | 102-4 | HODGES ESTATES #1 | WHARTON E (FRIO 6100) | 180.0 | HOUSTON PIPE LINE | |
| -GULF COAST OIL & MINERALS | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228631 | F-02-038157 | 4246931459 | 103 | MILTON E SEALE #1-A | PROPOSED VICTORIA N (| 90.0 | TENNESSEE GAS PIP | |
| -GULF ENERGY PRODUCING COMPANY | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228741 | F-78-046501 | 4236332793 | 102-4 | HART RANCH #877-2 (97367) | GRAFORD EAST (STRAWN | 0.0 | TEXAS UTILITIES F | |
| -GULF OIL CORPORATION | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228796 | F-7C-048230 | 4210500000 | 108 | F R HENDERSON #1 | OZONA NORTHWET (CANYO | 9.0 | SHELL OIL CO | |
| 8228952 | F-08-049443 | 4247532082 | 103 | HUTCHINGS STOCK ASSN #1091 | WARD-ESTES NORTH | 10.0 | CABOT CORP | |
| 8228668 | F-09-041572 | 4218130620 | 102-4 | MONTGOMERY #1 | N E SOUTHWAYD | 144.0 | LONE STAR GAS CO | |
| 8228667 | F-09-041570 | 4218130600 | 102-4 | R H PICKENS #1 | SOUTHWAYD N E | 9.0 | LONE STAR GAS CO | |
| 8228787 | F-08-048035 | 4230100499 | 108 | TXL -AV- /NCT-A/ #1 | TUNSTALL EAST (DELAWA | 1.0 | PHILLIPS PETROLEU | |
| 8228784 | F-08-047971 | 4230100500 | 108 | TXL -AV- /NCT-A/ #3 | TUNSTALL EAST (DELAWA | 1.0 | PHILLIPS PETROLEU | |
| 8228785 | F-08-047974 | 4230100501 | 108 | TXL -AV- /NCT-A/ #4 | TUNSTALL EAST (DELAWA | 0.0 | PHILLIPS PETROLEU | |
| 8228786 | F-08-047997 | 4230100502 | 108 | TXL -AV- /NCT-A/ #5 | TUNSTALL EAST (DELAWA | 1.0 | PHILLIPS PETROLEU | |
| 8228944 | F-08-049424 | 4210332663 | 103 | W N WADDELL #1155 | DUNE | 5.7 | | |
| 8228945 | F-08-049425 | 4210332728 | 103 | W N WADDELL ET AL TR H #1176 | LEA (SAN ANDRES) | 6.6 | | |
| -H D C VENTURES INC | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228795 | F-01-048212 | 4217700000 | 103 | J M DUBOSE #1 | PEACH CREEK (AUSTIN C | 0.0 | VALERO TRANSMISSI | |
| -H L R INC | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228817 | F-78-048682 | 4204932858 | 103 | AMALENE ISAACKS #2 | BROWN COUNTY REGULAR | 36.0 | SIoux PIPELINE CO | |
| -H M OIL CO | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228788 | F-03-048037 | 4248132238 | 102-4 | F E APPLING #1 | HELEN (FRIO 5520) | 0.0 | NATURAL GAS PIPEL | |
| 8228777 | F-03-047807 | 4248132239 | 103 | JOSEPH F MACH #1 | MACH (6700) | 0.0 | UNITED GAS PIPELI | |
| 8228808 | F-02-048574 | 4246931766 | 102-4 | NANCY SHELTON #2-T | PALO ALTO (6980) | 0.0 | UNITED TEXAS TRAN | |
| -HAMILTON BROTHERS OIL CO | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228657 | F-10-040248 | 4239330826 | 103 | LOCKE CATTLE CO #1-15 | SHRIEKEY | 75.0 | PIONEER CORP | |
| -HANOVER MANAGEMENT CO | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228654 | F-06-040079 | 4200131081 | 102-4 | HANOVER MANAGEMENT COMPANY-CADY #3 | PRAIRE LAKE SW (RODES | 730.0 | SEAGULL PIPELINE | |
| -HARKEN OIL & GAS INCORP | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228900 | F-7C-049319 | 4239931491 | 103 | J H JONES (BATTERY #1) | CREWS SOUTH (DOG BEND | 0.0 | LONE STAR GAS CO | |
| 8228845 | F-7C-048913 | 4239931828 | 102-4 | J H JONES (BATTERY #2) | MCDONNELL (FRY LOWER) | 7.5 | LONE STAR GAS CO | |
| -HENRY PETROLEUM CORP | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228763 | F-8A-047500 | 4211500000 | 103 | THORP #2 | TEX-HAMON (DEAN) | 0.0 | GETTY OIL CO | |
| -HILLIN PRODUCTION CO | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228771 | F-08-047627 | 4237133575 | 103 | IRT "29-A" #3 | PECOS VALLEY (YATES) | 86.4 | INTRATEX GAS CO | |
| -HNG OIL COMPANY | | | RECEIVED: | 04/22/82 | J A: TX | | | |
| 8228783 | F-7C-047970 | 4243532562 | 103 | JONES "120" #5 | SAWYER (CANYON) | 0.0 | INTRATEX GAS CO | |
| 8228848 | F-7C-048932 | 4243500000 | 103 | REINHARDT "6" #2 | SAWYER (CANYON) | 58.4 | INTRATEX GAS CO | |
| 8228861 | F-08-049243 | 4237100000 | 108 | TEXAS AMERICAN SYNDICATE "2" #1 | PERRY BASS (DEVONIAN) | 48.0 | INTRATEX GAS CO | |
| -HOUSTON OIL & MINERALS CORPORATION | | | RECEIVED: | 04/22/82 | J A: TX | | | |

| JD NO | JA DKT | APT NO | D SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---------|--------------------------------------|------------|-----------|----------|----------------------------|------------------------|-------|-------------------|
| 8228702 | F-03-044521 | 4229131447 | 103 | | CHARLES WILSON FEE #29 | LIBERTY SOUTH | 0.0 | HOUSTON PIPE LINE |
| 8228666 | F-03-041348 | 4228733973 | 103 | | DELBERT GERSCH #2 | GIDDINGS (BUDA) | 8.0 | PGP GAS PRODUCTS |
| 8228846 | F-08-048925 | 4231732396 | 103 | | NAIL B 1 #1 | SPRABERRY (TREND AREA) | 0.0 | |
| | -HUGHES & HUGHES | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228701 | F-04-044466 | 4235500000 | 102-4 | | R PHILIP SCHULZE #3 | AGUA DULCE (7850) | 0.0 | HOUSTON PIPE LINE |
| | -HUMBLE EXPLORATION CO INC | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228628 | F-03-037536 | 4228700000 | 102-2 | 103 | MARCELLA SNELL #1 | GIDDINGS (AUSTIN CHAL) | 0.0 | PHILLIPS PETROLEU |
| 8228627 | F-03-037534 | 4228700000 | 102-2 | 103 | MARIAN WEST #1 | GIDDINGS (AUSTIN CHAL) | 0.0 | PHILLIPS PETROLEU |
| | -INDEPENDENT EXPLORATION CO | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228659 | F-01-040762 | 4250731488 | 102-4 | | PERKINS #1-C | PRYOR EAST (OLMOS) | 511.0 | |
| 8228660 | F-01-040763 | 4250731488 | 102-4 | | PERKINS #1-T | PRYOR EAST (SAN MIGUE) | 310.0 | |
| | -INDIAN WELLS OIL CO | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228655 | F-7C-049166 | 4223531808 | 103 | | CRAWFORD 6-1 | MERTZON (CANYON) | 109.5 | NORTHERN NATURAL |
| | -INEXCO OIL COMPANY | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228794 | F-03-046182 | 4214931220 | 102-2 | | LOIS #1 | GIDDINGS (AUSTIN CHAL) | 60.0 | PHILLIPS PETROLEU |
| 8228959 | F-03-049437 | 4214931246 | 102-2 | | TOMMIE E O BREWER #2 | GIDDINGS (AUSTIN CHAL) | 9.0 | PHILLIPS PETROLEU |
| | -INLAND OCEAN INC | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228762 | F-02-047468 | 4217500000 | 102-4 | | RALPH N GILLAN ET AL | CARTER THOMAS (COOK M) | 0.0 | UNITED GAS PIPELI |
| | -INTEGRAL ENERGY CORP | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228641 | F-03-039309 | 4232100000 | 103 | | NANCY HEFFELFINGER #1 | TIDEHAVEN (8450 GAS) | 0.0 | VALERO TRANSMISSI |
| | -INTRAMERICAN ENERGY CORP | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228625 | F-02-037008 | 4253147300 | 102-4 | | SEGO RANCH #1 (93784) | ALKEK (BUFORD SAND) | 220.0 | HOUSTON PIPELINE |
| | -J CLEO THOMPSON & JAMES CLEO THOMPS | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228726 | F-7C-045949 | 4210533445 | 103 | 107-TF | UNIVERSITY 29-30E #2 | OZONA (CANYON) | 150.0 | PHILLIPS PETROLEU |
| 8228847 | F-7C-048928 | 4210533709 | 102-4 | | UNIVERSITY 31-21W #2 | UNIVERSITY 31 (STRAWN) | 180.0 | PHILLIPS PETROLEU |
| | -J E N RESOURCES | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228989 | F-08-049557 | 4249531444 | 103 | | CAMPBELL "A" 2 | KEYSTONE (COLBY) | 22.0 | |
| | -J M HUBER CORPORATION | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228854 | F-10-049163 | 4223331286 | 103 | | SOUTH HERRING #166 | PANHANDLE | 51.0 | COLORADO INTERSTA |
| | -JACK N BLAIR | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228858 | F-08-049172 | 4213533833 | 102-4 | | WEST RANCH #5 | HOLLIVACK | 100.0 | PHILLIPS PETROLEU |
| | -JAMES D RICE | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228692 | F-7B-044003 | 4208300000 | 102-4 | | FEATHERSTON #4 | PROLER (BRENEKE) | 11.0 | ODESSA NATURAL CO |
| | -JIM B CURRY | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228931 | F-7B-049383 | 4208331878 | 102-4 | | D F WINFREY #1 (87591) | DIRKS (CROSS CUT) | 247.0 | SIoux PIPELINE CO |
| 8228930 | F-7B-049382 | 4208332106 | 102-4 | | D F WINFREY #2 (89017) | DIRKS (CROSS CUT) | 255.0 | SIoux PIPELINE CO |
| 8228929 | F-7B-049381 | 4208332164 | 102-4 | | D F WINFREY #3 (91477) | DIRKS (CROSS CUT) | 131.0 | SIoux PIPELINE CO |
| | -JOHN A NEWMAN | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228717 | F-7B-045445 | 4238330000 | 102-4 | | SEALY RANCH 2-B | CONSER MURPHY | 75.0 | LONE STAR GAS CO |
| | -JOHN G VOIGHT | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228721 | F-03-045755 | 4248100000 | 102-4 | | J RUNNELS #3 | HOLLYWOOD SOUTH (FRIO) | 0.0 | TENNESSEE GAS PIP |
| | -JOHN L COX | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228630 | F-7C-037990 | 4238331912 | 103 | | ROCKER B "Q" #2-X (#05289) | SPRABERRY (TREND AREA) | 10.0 | EL PASO NATURAL G |
| | -J3 OIL CO INC | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228722 | F-02-045756 | 4223931696 | 102-4 | 103 | CARRIN M PATMAN #1 | LITTLE KENTUCKY N (65 | 180.0 | TEXAS EASTERN TRA |
| | -KEITH WELLS | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228927 | F-01-049378 | 4205900000 | 103 | | HAL PENDER #1 17933 | ELMDALE (PALO PINTO) | 365.0 | FORT CHADBOURNE C |
| 8228928 | F-7B-049379 | 4235930000 | 103 | | WENDELL FOREMAN #2 16649 | ELMDALE (PALO PINTO) | 547.5 | FORT CHADBOURNE C |
| | -KERR-MCGEE CORPORATION | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228971 | F-08-049486 | 4213533514 | 103 | | GIST "A" #24 | FOSTER | 2.8 | ODESSA NATURAL CO |
| | -KIRKPATRICK OIL INC | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228695 | F-02-044215 | 4246931807 | 102-4 | | BECK #1 NUMBER 2 53324 300 | LERoy BECK (FRIO 3570 | 0.0 | FLORIDA GAS TRANS |
| | -LOUIS A NEWITT | | RECEIVED: | 04/22/82 | JA: TX | | | |

| JD NO | JA DKT | API NO | D SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|------------------------------|-------------|------------|-----------|----------|------------------------------------|------------------------------|--------|-------------------|
| 8228556 | F-03-040173 | 4208900000 | 102-4 | | EDGAR J POPP 1-T | LYDIA 3680 | 90.0 | LONE STAR GAS CO |
| -M J G INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228764 | F-02-047536 | 4217500000 | 103 | | POEHLER #1A | J FIFER A-120 | 6.0 | UNITED GAS PIPELI |
| -MARATHON OIL COMPANY | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228732 | F-7C-046178 | 4218533664 | 103 | | UNIVERSITY #0# #8 | AMIGO (SAN ANDRES) | 33.0 | BIG LAKE GAS CORP |
| -MCCORD EXPLORATION | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228747 | F-04-046676 | 4235531830 | 102-4 | | MCCORD - C N COOKE #1 - T | DOUGHTY | 275.0 | HOUSTON PIPELINE |
| -MCKENZIE OPERATING CO INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228746 | F-04-046675 | 4235531830 | 102-4 | | MCCORD-C N COOKE #1 C | DOUGHTY | 275.0 | HOUSTON PIPELINE |
| -MCKENZIE OPERATING CO INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228623 | F-7B-036889 | 4236300000 | 102-4 | | WIGGINGTON #1 | MINERAL WELLS S (CONG 2044.0 | 2044.0 | SOUTHWESTERN GAS |
| -MEMBOURNE OIL COMPANY | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228810 | F-7C-048593 | 4238331872 | 103 | | CHRISTY "C" #2 WELL RRC ID #08527 | SPRABERRY (TREND AREA | 10.0 | UNION TEXAS PETRO |
| -MILES PRODUCTION CO | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228655 | F-10-040112 | 4235731133 | 102-4 | | MEKEL #1 ID #96353 | TURNER SE (UPPER MORR | 50.0 | DIAMOND SHAMROCK |
| -MITCHELL ENERGY CORPORATION | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228903 | F-19-049325 | 4229500000 | 102-4 | | SCHULTZ #117# #1 RRC ID #04991 | HARMON (HARMATON) | 20.0 | NORTHERN NATURAL |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228688 | F-10-043714 | 4229531045 | 102-4 | | SCHULTZ #117# 2 ID#93586 | HARMON (HARMATON) | 30.0 | NORTHERN NATURAL |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228819 | F-7C-048700 | 4238300000 | 103 | | WELCH #2 | SPRABERRY (TREND AREA | 10.0 | EL PASO NATURAL G |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228818 | F-7C-048699 | 4238300000 | 103 | | WELCH #1 | SPRABERRY (TREND AREA | 10.0 | EL PASO NATURAL G |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228629 | F-7C-037647 | 4243500000 | 103 | | 107-TF BEHLING #2 | SAWYER (CANYON) | 60.0 | INTRATEX GAS CO |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228770 | F-09-047625 | 4223700000 | 102-4 | | M P HOEFLE "B" #1 | ANTELOPE SE (MARBLE F | 137.0 | SOUTHWESTERN GAS |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228647 | F-09-039538 | 4236700000 | 108-ER | | BENNIE PHILLIPS #1 71890 | BOONSVILLE (BEND CONG | 11.3 | NATURAL GAS PIPEL |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228612 | F-09-034518 | 4249700000 | 108-ER | | E M BAUGH UNIT #1 | BOONSVILLE (BEND CONG | 9.0 | SOUTHWESTERN GAS |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228947 | F-09-049430 | 4249700000 | 108 | | J D HOOKER #1 ID #28682 | BOONSVILLE (BEND CONG | 2.6 | NATURAL GAS PIPEL |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228605 | F-09-04114 | 4249700000 | 108-ER | | J O CASTLEBERRY #1 28593 | BOONSVILLE (BEND CONG | 6.1 | NAT GAS PIPELINE |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228860 | F-09-049189 | 4223700000 | 108 | | RICHARDS 472 #2 #56202 | BOONSVILLE (BEND CONG | 10.9 | SOUTHWESTERN GAS |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228607 | F-09-017318 | 4249700000 | 108-ER | | RUFUS GARRETT #1 42362 | BOONSVILLE (BEND CONG | 12.0 | SOUTHWESTERN GAS |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228709 | F-09-044858 | 4249700000 | 108-ER | | TARRANT COUNTY WATER BRD #25 17160 | CAP YATES (CONSOLIDAT | 2.9 | NATURAL GAS PIPEL |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228673 | F-09-042232 | 4249700000 | 108-ER | | W L MACKAY #2 34121 | BOONSVILLE (BEND CONG | 14.2 | NATURAL GAS PIPEL |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228608 | F-09-025291 | 4223700000 | 108-ER | | Z H BORDEN #2 | CROFTON WEST | 0.0 | CITIES SERVICE CO |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228901 | F-08-049320 | 4237133571 | 103 | | FRED SCHLOSSER ESTATE B #4 | ROJO CABALLOS (DELANA | 24.5 | EL PASO NATURAL G |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228644 | F-03-039353 | 4214900000 | 102-2 | | MILDRED MAY #1 | GIDDINGS (AUSTIN CHAL | 0.0 | PHILLIPS PETROLEU |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228645 | F-08-039384 | 4230130261 | 107-OP | | W D JOHNSON UNIT #1 | SLASH RANCH (FUSSELMA | 2.0 | INTRATEX GAS CO |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228773 | F-08-047695 | 4247531728 | 103 | | JUAREZ #1 | RODGERS | 100.0 | LONE STAR GAS CO |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228780 | F-10-047901 | 4221131319 | 103 | | WRIGHT #4 ID NO 93632 | CANADIAN SE (DOUGLAS) | 0.0 | NORTHERN NATURAL |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228921 | F-7C-049371 | 4245130852 | 102-2 | | BROWN "A" #1 | K W B (STRAWN) | 64.8 | LONE STAR GAS CO |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228908 | F-02-049337 | 4246931771 | 102-4 | | WARREN HEINOLD #1 | WEBER E (1310) | 0.0 | DELHI GAS PIPELIN |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228775 | F-10-047713 | 4235731183 | 102-4 | | DIXIE 1-390 | TURNER E (MORROW UPPE | 450.0 | TRANSWESTERN PIPE |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228704 | F-03-044704 | 4248132113 | 103 | | SORRELL #12 | SPANISH CAMP 4800# FR | 120.0 | UNITED TEXAS TRAN |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228642 | F-03-039330 | 4205131386 | 102-2 | | WHITENER "O" UNIT #1 | GIDDINGS (AUSTIN CHAL | 0.0 | CLAJON GAS CO |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228640 | F-03-039276 | 4205131576 | 102-2 | | WHITENER "L" UNIT #1 | GIDDINGS (AUSTIN CHAL | 0.0 | CLAJON GAS CO |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228941 | F-04-049484 | 4235500000 | 108 | | W C OCKER #1 77174 | RIVERSIDE SOUTH (FRIO | 11.0 | TENNESSEE GAS PIP |
| -MORROW RESOURCES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |

| JD NO | JA DKT | API NO | D SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|----------------------------------|-------------|------------|-----------|----------|----------------------------------|-----------------------|-------|-------------------|
| 8228643 | F-78-039339 | 4236332311 | 102-4 | | PADGETT RANCH #4 | CLAY COUNTY REGULAR | 11.0 | SANFORD P FAGADAU |
| 8228831 | F-78-048782 | 4236332688 | 103 | | PADGETT RANCH #5 | WEST PANHANDLE | 18.0 | COLORADO INTERSTA |
| 8228832 | F-78-048783 | 4236332689 | 103 | | PADGETT RANCH #6 | PANHANDLE CARSON COUN | 31.0 | GETTY OIL CO |
| -P C BURNS | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228969 | F-09-049476 | 4207732470 | 103 | | VIOLA MYERS #11, 17583 | | | |
| -PANHANDLE PRODUCING COMPANY | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228987 | F-10-049551 | 4223300000 | 108 | | MERCHANT #B# 5-A | | | |
| 8228902 | F-10-049321 | 4206500000 | 103 | | VIDA LEWIS #B# - 10 | | | |
| -PATRICK B FEAGIN OIL & GAS | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228678 | F-02-042574 | 4246931701 | 102-4 | | SCOTT GEORGE E #1 | SE SALEM (2400* SAND) | 0.0 | TEXAS EASTERN TRA |
| -PAUL STEPHEN FUGUA | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228720 | F-78-045642 | 4236732098 | 102-4 | | FUGUA - BILLY R MURRELL #1 | SHARPE (ATOKA) | 140.0 | EMPIRE PIPELINE C |
| -PENINSULA RESOURCES CORPORATION | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228661 | F-04-040765 | 4227331550 | 103 | | KAUFER #1 UPPER | S MAY (A-MIDDLE 4) | 65.0 | TEXAS EASTERN TRA |
| -PHILLIPS PETROLEUM COMPANY | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228988 | F-08-049553 | 4213502716 | 108 | | (21193) GOLDSMITH ANDECTOR #U-14 | | | |
| 8228731 | F-06-046177 | 4236531306 | 102-2 | 103 | BEASLEY 3 #4 | GOLDSMITH (CLEARFORK) | 0.0 | EL PASO NATURAL G |
| 8228615 | F-10-035049 | 4217900000 | 108 | | DOSS #3 | CARTHAGE COTTON VALLE | 360.0 | UNITED GAS PIPELI |
| 8228766 | F-08-047597 | 4222732377 | 103 | | JOHNNIE-B #3 (09811) | PANHANDLE GRAY | 0.0 | |
| -PREMIUM OIL & GAS INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228664 | F-7C-041126 | 4239900000 | 103 | | W O MIDDLETON #2 | BIG SPRING (CANYON LI | 0.0 | GETTY OIL CO |
| -PRINOLE PETROLEUM INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228585 | F-03-043501 | 4229100000 | 102-4 | | S RIVES #1 | BALLINGER WEST (JENNI | 0.0 | LONE STAR GAS CO |
| -QUINTANA PETROLEUM CORP | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228634 | F-02-038578 | 4239131356 | 103 | | CLEMENT HEARD 23-L | HARDIN FIELD AREA (NE | 100.0 | POYNOR CORP |
| 8228635 | F-02-038579 | 4239131248 | 103 | | THOMAS O'CONNOR #C# 79-U | TOM O'CONNOR (5900* S | 78.0 | UNITED TEXAS TRAN |
| -RALPH L WAY INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228857 | F-7C-049169 | 4238331891 | 103 | | UNIVERSITY #8* #16 | TOM O'CONNOR (5900* S | 47.0 | UNITED TEXAS TRAN |
| -RANGER PETROLEUM | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228883 | F-10-049279 | 4206531059 | 103 | | BURNETT-ROSEBUD #1C20 | FARMER (SAM ANDRES) | 17.6 | NORTHERN NATURAL |
| 8228884 | F-10-049280 | 4206531061 | 103 | | BURNETT-ROSEBUD #2C20 | PANHANDLE - CARSON CO | 90.0 | PANHANDLE EASTERN |
| -RANKIN OIL CO | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228616 | F-08-035232 | 4200332207 | 103 | | STUCKERT #2 | PANHANDLE - CARSON CO | 108.0 | PANHANDLE EASTERN |
| -RED TOP OIL INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228761 | F-78-047433 | 4236331826 | 103 | | ROSS #1-AR | FURHRMAN MASCHO | 13.0 | PHILLIPS PETROLEU |
| -RENDOVA OIL CO | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228769 | F-7C-047622 | 4241300000 | 103 | | VIRGIL J POWELL #B* #3 | PALO PINTO COUNTY REG | 14.0 | LONE STAR GAS CO |
| -RED INDUSTRIES INC | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228977 | F-10-049518 | 4223300000 | 103 | | WHITTENBURG A 8-19 | TILLERY (STRAWN LIME) | 300.0 | ARCO OIL & GAS CO |
| 8228934 | F-10-049386 | 4223300000 | 103 | | WHITTENBURG 1-1 | PANHANDLE HUTCHINSON | 270.0 | TRANS-PAN PIPELIN |
| 8228859 | F-10-049173 | 4223300000 | 103 | | WHITTENBURG 1-10 | PANHANDLE HUTCHINSON | 72.0 | TRANS-PAN PIPELIN |
| 8228978 | F-10-049519 | 4223300000 | 103 | | WHITTENBURG 1-20 | PANHANDLE HUTCHINSON | 72.0 | TRANS-PAN PIPELIN |
| 8228933 | F-10-049385 | 4223300000 | 103 | | WHITTENBURG 1-5 | PANHANDLE HUTCHINSON | 72.0 | TRANS-PAN PIPELIN |
| 8228932 | F-10-049384 | 4223300000 | 103 | | WHITTENBURG 2-3 | PANHANDLE HUTCHINSON | 72.0 | TRANS-PAN PIPELIN |
| 8228906 | F-10-049334 | 4223300000 | 103 | | WHITTENBURG 2-5 | PANHANDLE HUTCHINSON | 72.0 | TRANS-PAN PIPELIN |
| 8228907 | F-10-049335 | 4223300000 | 103 | | WHITTENBURG 3-10 | PANHANDLE HUTCHINSON | 72.0 | TRANS-PAN PIPELIN |
| 8228905 | F-10-049333 | 4223300000 | 103 | | WHITTENBURG 3-12 | PANHANDLE HUTCHINSON | 72.0 | TRANS-PAN PIPELIN |
| 8228981 | F-10-049522 | 4223300000 | 103 | | WHITTENBURG 5-1 | PANHANDLE HUTCHINSON | 72.0 | TRANS-PAN PIPELIN |
| 8228979 | F-10-049520 | 4223300000 | 103 | | WHITTENBURG 5-11 | PANHANDLE HUTCHINSON | 72.0 | TRANS-PAN PIPELIN |
| 8228980 | F-10-049521 | 4223300000 | 103 | | WHITTENBURG 5-13 | PANHANDLE HUTCHINSON | 72.0 | TRANS-PAN PIPELIN |
| 8228904 | F-10-049532 | 4223300000 | 103 | | THORSON #1-A# 92585 | | | |
| -RICHOME OIL & GAS CO | | | RECEIVED: | 04/22/82 | JA: TX | | | |
| 8228748 | F-10-046722 | 4219505000 | 108 | | | TEXAS-HUGOTON | 4.2 | PANHANDLE EASTERN |

| JUL 80 | J4 JKT | API NO | SEC(1) SFC(2) WELL NAME | RECEIVED: | WELL NAME | FIELD NAME | PROL | PURCHASER |
|--------------------------------|-------------|------------|-------------------------|-----------|-----------------------------------|------------------------|-------|--------------------|
| -ROMAC OIL CO INC | F-7B-042105 | 4244732872 | 04/22/82 | 102-4 | MCKNIGHT-H M #1 | WILDCAT | 15.0 | GREAT WESTERN GAS |
| -RYCOL EXPLORATION INC | F-04-045359 | 4247932737 | 04/22/82 | 102-2 | RAYMOND L HARTMAN #1 | TOM WALSH | 15.0 | TEJAS GAS CORP |
| -S C OPERATING CO | F-7B-048763 | 4213300000 | 04/22/82 | 108 | CHAMBERS #1 | FOSTER (MARBLE FALLS) | 2.5 | STIOUX NATURAL GAS |
| -S K ROGERS OIL CO | F-8A-049365 | 4221933284 | 04/22/82 | 103 | LEVELL AND TOWNSITE "C" #1 | LEVELL AND | 15.0 | AMOCO PRODUCTION |
| 8228917 | F-8A-049363 | 4221933289 | 04/22/82 | 103 | LEVELL AND TOWNSITE "D" #1 | LEVELL AND | 0.0 | AMOCO PRODUCTION |
| 8228913 | F-8A-049355 | 4221933262 | 04/22/82 | 103 | REEVES #3 | LEVELL AND | 0.0 | AMOCO PRODUCTION |
| -SABINE PRODUCTION COMPANY | F-C4-047869 | 4235531761 | 04/22/82 | 102-4 | DOUGHTY #1-L | DOUGHTY (FRIO 9811) F | 182.5 | HOUSTON PIPE LINE |
| 8228649 | F-04-039746 | 4235531761 | 04/22/82 | 102-4 | DOUGHTY #1-U | DOUGHTY (FRIO 9376) F | 182.5 | HOUSTON PIPE LINE |
| -SAN PATRICIO CORP | F-04-048894 | 4240931599 | 04/22/82 | 103 | WHITE POINT DEVELOPMENT CO "A" #1 | WHITE POINT (24500) | 0.0 | UNITED GAS PIPELI |
| 8228850 | F-04-048894 | 4240931599 | 04/22/82 | 103 | WHITE POINT DEVELOPMENT CO "A" #1 | WHITE POINT (24500) | 0.0 | UNITED GAS PIPELI |
| -SANCHEZ-OBRIEN OIL & GAS CORP | F-02-043638 | 4229732657 | 04/22/82 | 102-4 | PAWLIK GAS UNIT #1 #2 | GEORGE WEST W (11,400) | 500.0 | UNITED TEXAS TRAN |
| 8228687 | F-02-043638 | 4229732657 | 04/22/82 | 102-4 | PAWLIK GAS UNIT #1 #2 | GEORGE WEST W (11,400) | 500.0 | UNITED TEXAS TRAN |
| -SANTA FE-WINDSOR PRODUCING CO | F-01-048281 | 4217730705 | 04/22/82 | 103 | BYRON #1 | GONZALES (AUSTIN CHAL | 36.5 | TIPPERARY CORP |
| 8228798 | F-01-048281 | 4217730705 | 04/22/82 | 103 | BYRON #1 | GONZALES (AUSTIN CHAL | 36.5 | TIPPERARY CORP |
| 8228800 | F-01-048283 | 4217730765 | 04/22/82 | 103 | JANIE #2 | GONZALES (AUSTIN CHAL | 36.5 | TIPPERARY CORP |
| 8228801 | F-01-048284 | 4217730733 | 04/22/82 | 103 | JANIE UNIT #1 | GONZALES (AUSTIN CHAL | 36.5 | TIPPERARY CORP |
| 8228745 | F-03-046612 | 4228731087 | 04/22/82 | 102-2 | JULIA UNIT #1 | GIDDINGS (AUSTIN CHAL | 219.0 | PERRY PIPELINE CO |
| 8228745 | F-03-046612 | 4228731087 | 04/22/82 | 102-2 | JULIA UNIT #1 | GIDDINGS (AUSTIN CHAL | 219.0 | PERRY PIPELINE CO |
| 8228806 | F-03-048541 | 4228731089 | 04/22/82 | 103 | NEWTON #1 | GIDDINGS (AUSTIN CHAL | 36.5 | PERRY PIPELINE CO |
| 8228799 | F-01-048282 | 4217730558 | 04/22/82 | 103 | SCHRADER UNIT #1 | GONZALES (AUSTIN CHAL | 36.5 | TIPPERARY CORP |
| -SAXON OIL COMPANY | F-8A-047923 | 4211800000 | 04/22/82 | 103 | BECKMEYER #2 | ACKERLY (DEAN SAND) | 0.0 | ADOBE OIL & GAS C |
| 8228782 | F-8A-047923 | 4211800000 | 04/22/82 | 103 | BECKMEYER #2 | ACKERLY (DEAN SAND) | 0.0 | ADOBE OIL & GAS C |
| 8228774 | F-7C-047708 | 4238339000 | 04/22/82 | 103 | BRANCH "A" #1 | SPRABERRY (TREND AREA | 0.0 | NORTHERN NATURAL |
| 8228651 | F-7C-039819 | 4238331929 | 04/22/82 | 103 | UNIVERSITY "14-2" #3 | SPRABERRY (TREND AREA | 51.1 | PHILLIPS PETROLEU |
| -SCANDRILL CO | F-09-036069 | 4223733456 | 04/22/82 | 103 | HENDERSON #2 | WILDCAT | 247.5 | SUN GAS GATHERING |
| 8228619 | F-09-036069 | 4223733456 | 04/22/82 | 103 | HENDERSON #2 | WILDCAT | 247.5 | SUN GAS GATHERING |
| 8228622 | F-09-036868 | 4250334442 | 04/22/82 | 103 | PEARL T KURK #27 | YOUNG COUNTY REGULAR | 262.4 | SUN GAS GATHERING |
| -SEAGO OIL INC | F-7B-049349 | 4215331297 | 04/22/82 | 103 | MOORE #1 | CLAYTONVILLE SE (5000 | 75.0 | TIPPERARY CORP |
| 8228912 | F-7B-049349 | 4215331297 | 04/22/82 | 103 | MOORE #1 | CLAYTONVILLE SE (5000 | 75.0 | TIPPERARY CORP |
| -SHELL OIL CO | F-04-046086 | 4221531040 | 04/22/82 | 103 | BOSTON-TEXAS LAND TRUST #18 | JAVELINA (VICKSBURG L | 200.0 | NATURAL GAS PIPEL |
| 8228728 | F-04-046086 | 4221531040 | 04/22/82 | 103 | BOSTON-TEXAS LAND TRUST #18 | JAVELINA (VICKSBURG L | 200.0 | NATURAL GAS PIPEL |
| 8228889 | F-08-049296 | 4213500000 | 04/22/82 | 108 | E HARPER UNIT #13 | HARPER | 1.3 | PHILLIPS PETROLEU |
| 8228890 | F-08-049297 | 4213500000 | 04/22/82 | 108 | E HARPER UNIT #419 | HARPER | 0.6 | PHILLIPS PETROLEU |
| 8228948 | F-08-049435 | 4221533870 | 04/22/82 | 102-4 | JONES RANCH "A" #3 | MCALLEN RANCH N (VICK | 750.0 | VALERO TRANSMISSI |
| 8228895 | F-08-049302 | 4200300000 | 04/22/82 | 108 | LOGSDON C W E #4 | UNION | 14.6 | PHILLIPS PETROLEU |
| 8228898 | F-08-049305 | 4210300000 | 04/22/82 | 108 | MCCLINTIC UNIT #12 | MC ELROY | 0.5 | PHILLIPS PETROLEU |
| 8228899 | F-08-049306 | 4210300000 | 04/22/82 | 108 | MCCLINTIC UNIT #50 | MC ELROY | 0.5 | PHILLIPS PETROLEU |
| 8228892 | F-7C-049299 | 4210500000 | 04/22/82 | 108 | MIDWAY LANE 1100 UNIT #124 | MIDWAY LANE (PERMIAN) | 0.9 | JAMES C BURNETT |
| 8228893 | F-8A-049300 | 4210500000 | 04/22/82 | 108 | NEWBORN #11 | ROBERTSON N (SAN ANDR | 1.1 | PHILLIPS PETROLEU |
| 8228734 | F-02-046220 | 4228531561 | 04/22/82 | 103 | PROVIDENT CITY GAS UNIT #13 | PROVIDENT CITY (WILCO | 400.0 | TEXAS EASTERN TRA |
| 8228897 | F-08-049304 | 4213500000 | 04/22/82 | 108 | TXL -D- #1 | TXL (DEVONIAN) | 4.2 | SHELL OIL ET AL |
| 8228891 | F-08-049298 | 4213500000 | 04/22/82 | 108 | TXL NORTH UNIT #262-L | TXL (TUBBS) | 15.6 | SHELL OIL ET AL |
| 8228694 | F-08-049301 | 4200300000 | 04/22/82 | 108 | UNIVERSITY -A- #2 | ANDREWS SOUTH (DEVONI | 13.1 | EL PASO NATURAL G |
| 8228759 | F-08-047321 | 4200332563 | 04/22/82 | 103 | UNIVERSITY -J- #4 | ANDREWS SOUTH (WOLFCA | 12.8 | EL PASO NATURAL G |
| 8228896 | F-10-049303 | 4229500000 | 04/22/82 | 108 | WHEAT #1-732 | PERRY (MARMATON) | 0.0 | TRANSWESTERN PIPE |
| -SIGMA EXPLORATION CORP | F-10-048898 | 4223300000 | 04/22/82 | 108 | G A WHITTENBURG #1-RRC 57534 | WEST PANHANDLE | 18.0 | PHILLIPS PETROLEU |
| 8228837 | F-10-048898 | 4223300000 | 04/22/82 | 108 | G A WHITTENBURG #1-RRC 57534 | WEST PANHANDLE | 18.0 | PHILLIPS PETROLEU |
| -SNOW OIL CO | F-7B-049155 | 4213333449 | 04/22/82 | 102-4 | ALEXANDER #1 (17907) | CISCO (CONGL 3600) | 183.0 | LONE STAR GAS CO |
| 8228853 | F-7B-049155 | 4213333449 | 04/22/82 | 102-4 | ALEXANDER #1 (17907) | CISCO (CONGL 3600) | 183.0 | LONE STAR GAS CO |

| JD NO | JA DKT | API NO | D SEC(1) | SEC(2) | WELL NAME | RECEIVED: | UNIT # | FIELD NAME | PROC | PURCHASER |
|------------------------------------|-------------|------------|----------|--------|--------------------------------|-----------|----------|------------------------|--------|-------------------|
| 8228970 | F-06-049478 | 4240131312 | 103 | | TATUM CRANE | 04/22/82 | UNIT #22 | TATUM (PETTIT LOWER) | 54.0 | UNITED TEXAS TRAN |
| -TEXAS OIL & GAS CORP | | | | | | | | | | |
| 8228743 | F-05-046540 | 4228930470 | 102-4 | | GUEST "A" #1 | | | BEAR GRASS (TRAVIS PE | 0.0 | |
| 8228671 | F-06-041971 | 4240131233 | 103 | | 107-TF HOLCOMB "C" #1 | | | OAK HILL NW (COTTON V | 0.0 | |
| 8228665 | F-02-041129 | 4202531526 | 103 | | ROSE J-1 | | | CAESAR SOUTH (5650*) | 0.0 | UNITED GAS PIPELI |
| -THE DOW CHEMICAL COMPANY | | | | | | | | | | |
| 8228758 | F-03-047278 | 4224531509 | 103 | | HEBERT-BROSSARD #14 | | | GUM ISLAND N (HACKBER | 1440.0 | UNITED TEXAS TRAN |
| -TIPPERARY OIL AND GAS CORP | | | | | | | | | | |
| 8228691 | F-01-043874 | 4216332049 | 103 | | HARRIS "G" #1 | | | PEARSALL (AUSTIN CHAL | 0.0 | TIPPERARY CORP |
| 8228670 | F-03-041778 | 4214931116 | 103 | | HYDROCARBON GATHERING #1 | | | GIDDINGS (AUSTIN CHAL | 100.0 | PHILLIPS PETROLEU |
| 8228698 | F-03-044288 | 4214931244 | 103 | | KRAKOSKY #1 | | | GIDDINGS (AUSTIN CHAL | 0.0 | PHILLIPS PETROLEU |
| 8228676 | F-03-042404 | 4214931157 | 103 | | MOHLER #1 | | | GIDDINGS (AUSTIN CHAL | 0.0 | PHILLIPS PETROLEU |
| -TRANSCONTINENTAL OIL CORPORATION | | | | | | | | | | |
| 8228693 | F-06-044092 | 4236531286 | 103 | | 107-TF CARTER ESTATE #2 | | | CARTHAGE (COTTON VALL | 219.0 | UNITED GAS PIPELI |
| 8228658 | F-16-043638 | 4236531266 | 103 | | 107-TF WIENER ESTATE #2 | | | CARTHAGE (COTTON VALL | 275.0 | UNITED GAS PIPE L |
| -TSPI INC | | | | | | | | | | |
| 8228725 | F-10-045827 | 4206500000 | 103 | | JON ANN 2 | | | PANHANDLE CARSON | 50.0 | PANHANDLE EASTERN |
| -TXO PRODUCTION CORP | | | | | | | | | | |
| 8228760 | F-10-047367 | 4235731219 | 102-4 | | DANIELS "C" #2 | | | FARRAR N (BOSSIER, SAN | 180.0 | DELHI GAS PIPELIN |
| 8228736 | F-05-046345 | 4216130689 | 103 | | 107-TF HUFFMAN "B" #1 | | | | 0.0 | |
| -U S HYDROCARBONS ENG & EXPLOR INC | | | | | | | | | | |
| 8228803 | F-04-048444 | 4235531857 | 102-4 | | J H GAGLIANO #2 | | | BALZAR (1600) | 146.0 | GASTRANS INC |
| -U S OPERATING INC | | | | | | | | | | |
| 8228742 | F-03-046531 | 4228730854 | 102-2 | | MARY HELEN #1 RRC ID N/A | | | GIDDINGS (AUSTIN CHAL | 0.0 | PGP GAS PRODUCTS |
| -UNION OIL COMPANY OF CALIF | | | | | | | | | | |
| 8228669 | F-05-041712 | 4216130646 | 103 | | 107-TF M E PRUIETT GAS UNIT #2 | | | WEST TEAGUE | 365.0 | LONE STAR GAS CO |
| -UNION TEXAS PETROLEUM | | | | | | | | | | |
| 8228767 | F-08-047608 | 4230130333 | 102-4 | | RED BLUFF '89' #2 | | | RED BLUFF (WOLFCAMP) | 1095.0 | TEXAS GAS TRANSMI |
| -UNITED PETROSEARCH INC | | | | | | | | | | |
| 8228681 | F-10-042855 | 4248330820 | 103 | | CARPENTER 95-01 "A" | | | EAST PANHANDLE GAS | 8.2 | PHILLIPS PETROLEU |
| -VORTY EXPLORATION CO INC | | | | | | | | | | |
| 8228620 | F-78-036842 | 4236332604 | 102-4 | | M H BRANSON UNIT I #1 (93495) | | | SANTO E (3800* CONGLO | 0.0 | SOUTHWESTERN GAS |
| -W A MONCRIEF JR | | | | | | | | | | |
| 8228972 | F-78-049491 | 4236730270 | 108 | | J M RANCH #1 | | | BUCK RANCH | 15.8 | SOUTHWESTERN GAS |
| 8228973 | F-78-049492 | 4236731170 | 108 | | MONCRIEF RANCH #5 | | | WEATHERFORD (STRAWN) | 14.7 | SOUTHWESTERN GAS |
| -W EARL ROME | | | | | | | | | | |
| 8228613 | F-02-034686 | 4231100000 | 107-PE | | BAKER #1 | | | BAKER RANCH | 36.0 | VALLEY PIPE LINES |
| -W L BRUCE OPERATOR | | | | | | | | | | |
| 8228624 | F-10-048719 | 4206531030 | 103 | | MCCONNELL RRC04954 | | | PANHANDLE CARSON | 144.0 | GETTY OIL CO |
| -W M LAUGHLIN | | | | | | | | | | |
| 8228915 | F-04-049358 | 4213100000 | 108 | | V S DE GONZALEZ #1 | | | INDEPENDENCE (3150 GA | 18.9 | VALLEY GAS TRANSM |
| -WARREN PETR CO A DIV OF GULF OIL | | | | | | | | | | |
| 8228828 | F-08-048749 | 4210332726 | 103 | | M L BARNESLEY "C" #11 | | | LEA (SAN ANDRES) | 2.5 | EL PASO NATURAL G |
| 8228827 | F-08-048747 | 4210332727 | 103 | | M L BARNESLEY "C" #12 | | | LEA (SAN ANDRES) | 5.8 | EL PASO NATURAL G |
| 8228943 | F-08-049415 | 4210332723 | 103 | | P J LEA #10-113 | | | LEA (SAN ANDRES) | 12.1 | EL PASO NATURAL G |
| 8228826 | F-08-048746 | 4210332744 | 103 | | P J LEA #10-116 | | | LEA (SAN ANDRES) | 3.8 | EL PASO NATURAL G |
| -WESTLAND OIL DEVELOPMENT CORP | | | | | | | | | | |
| 8228776 | F-10-047733 | 4248330050 | 102-4 | | CIRCLE DOT RANCH INC #2 | | | GAGEBY CREEK W (HUNTO | 1100.0 | |
| 8228950 | F-7A-049440 | 4203330756 | 102-4 | | SHAFFER #2 | | | GRAVEL PIT (STRAWN) | 0.0 | SUN GAS CO |
| -WILLIAM PERLMAN | | | | | | | | | | |
| 8228609 | F-7C-029894 | 4243532413 | 102-2 | | 107-TF IDA CAUTHORN 135-4 | | | SHURLEY RANCH (CANYON | 0.0 | EL PASO NATURAL G |
| -WV-VEL CORP | | | | | | | | | | |
| 8228852 | F-10-049090 | 4206531054 | 103 | | BURNETT (04270) #9 | | | PANHANDLE CARSON COUN | 74.0 | GETTY OIL CO |

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FIELD NAME PROD PURCHASER

JD NO JA LKT API NO D SEC(1) SEC(2) WELL NAME

OTHER PURCHASERS VOLUME NO :648

- 8228773 TRANSWESTERN PIPELINE CO
- 8228793 E I DUPONT DE NEMOURS & CO INC
- 8228823 E I DUPONT DE NEMOURS & CO INC
- 8228975 E I DUPONT DE NEMOURS & CO INC
- 8228986 PHILLIPS PETROLEUM CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential

under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission by June 4, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
107-GB: Geopressed brine
107-CS: Coal seams
107-DV: Devonian shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation

Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13913 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 649]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 17, 1982.

| JD NO | JA CRT | API NO | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROJ | PURCHASER |
|------------------------------------|---------|---------|------------|--------------------|-----------|------------|--------|-------------------|
| LOUISIANA OFFICE OF CONSERVATION | | | | | | | | |
| -CAPITAL GAS INC | 8229113 | 81-2894 | 1707321819 | RECEIVED: 04/23/82 | JA: LA | MONROE | 3.2 | IMC PIPELINE CO I |
| -DANSON OIL CORPORATION | 8229171 | 82-1026 | 1710121248 | RECEIVED: 04/23/82 | JA: LA | WYANDOTTE | 3500.0 | TEXAS GAS TRANSMI |
| -GAS RESOURCES INC | 8229110 | 81-2899 | 1706720621 | RECEIVED: 04/23/82 | JA: LA | MONROE GAS | 3.5 | CENTRAL TRANSMISS |
| | 8229111 | 81-2890 | 1706720623 | RECEIVED: 04/23/82 | JA: LA | MONROE GAS | 3.5 | CENTRAL TRANSMISS |
| | 8229087 | 81-2892 | 1706720628 | RECEIVED: 04/23/82 | JA: LA | MONROE GAS | 3.5 | CENTRAL TRANSMISS |
| -GATOR HAWK GAS CO | 8229075 | 81-2859 | 1707321785 | RECEIVED: 04/23/82 | JA: LA | MONROE | 2.3 | IMC PIPELINE CO I |
| | 8229076 | 81-2850 | 1707321817 | RECEIVED: 04/23/82 | JA: LA | MONROE | 3.2 | IMC PIPELINE CO I |
| -GLENDA PETROLEUM CORP | 8229074 | 81-2853 | 1707321499 | RECEIVED: 04/23/82 | JA: LA | MONROE | 16.0 | UNITED GAS P L CO |
| -HIBBARD-FROST-SMITH | 8229114 | 81-2895 | 1707300355 | RECEIVED: 04/23/82 | JA: LA | MONROE GAS | 4.0 | MID LOUISIANA GAS |
| | 8229115 | 81-2896 | 1707300354 | RECEIVED: 04/23/82 | JA: LA | MONROE GAS | 4.0 | MID LOUISIANA GAS |
| | 8229116 | 81-2897 | 1707300353 | RECEIVED: 04/23/82 | JA: LA | MONROE GAS | 4.0 | MID LOUISIANA GAS |
| | 8229117 | 81-2898 | 1707300356 | RECEIVED: 04/23/82 | JA: LA | MONROE GAS | 4.0 | MID LOUISIANA GAS |
| -IMC EXPLORATION COMPANY | 8229084 | 81-2872 | 1711123230 | RECEIVED: 04/23/82 | JA: LA | MONROE | 7.0 | IMC PIPELINE CO I |
| | 8229098 | 81-2874 | 1711123217 | RECEIVED: 04/23/82 | JA: LA | MONROE | 18.0 | IMC PIPELINE CO I |
| | 8229099 | 81-2875 | 1711123229 | RECEIVED: 04/23/82 | JA: LA | MONROE | 18.0 | IMC PIPELINE CO I |
| | 8229085 | 81-2873 | 1711123107 | RECEIVED: 04/23/82 | JA: LA | MONROE | 17.0 | IMC PIPELINE CO I |
| | 8229081 | 81-2869 | 1711123173 | RECEIVED: 04/23/82 | JA: LA | MONROE | 9.0 | PETRO-LEWIS CORP |
| | 8229082 | 81-2870 | 1711123184 | RECEIVED: 04/23/82 | JA: LA | MONROE | 3.0 | IMC PIPELINE CO I |
| | 8229083 | 81-2871 | 1711123185 | RECEIVED: 04/23/82 | JA: LA | MONROE | 7.0 | PETRO-LEWIS CORP |
| -K D LANKFORD JR & L&N DRLG CO | 8229154 | 81-2914 | 1711101763 | RECEIVED: 04/23/82 | JA: LA | MONROE | 5.0 | IMC PIPELINE CO I |
| | 8229155 | 81-2915 | 1711101764 | RECEIVED: 04/23/82 | JA: LA | MONROE | 4.0 | IMC PIPELINE CO I |
| -L A WEST | 8229077 | 81-2861 | 1707321731 | RECEIVED: 04/23/82 | JA: LA | MONROE | 9.1 | IMC PIPELINE CO I |
| | 8229078 | 81-2862 | 1707321732 | RECEIVED: 04/23/82 | JA: LA | MONROE | 9.1 | IMC PIPELINE CO I |
| -LAN DRILLING CO & K D LANKFORD JR | 8229164 | 81-2916 | 1711121035 | RECEIVED: 04/23/82 | JA: LA | MONROE | 4.0 | IMC PIPELINE CO I |
| -LANKFORD & NANCE | 8229161 | 81-2863 | 1711123234 | RECEIVED: 04/23/82 | JA: LA | MONROE | 12.0 | TEXAS GAS TRANSMI |
| | 8229159 | 81-2861 | 1711123193 | RECEIVED: 04/23/82 | JA: LA | MONROE | 5.0 | TEXAS GAS TRANSMI |
| | 8229160 | 81-2862 | 1711123231 | RECEIVED: 04/23/82 | JA: LA | MONROE | 10.0 | TEXAS GAS TRANSMI |
| | 8229157 | 81-2859 | 1711123162 | RECEIVED: 04/23/82 | JA: LA | MONROE | 8.0 | TEXAS GAS TRANSMI |
| | 8229158 | 81-2860 | 1711123163 | RECEIVED: 04/23/82 | JA: LA | MONROE | 5.0 | TEXAS GAS TRANSMI |
| | 8229156 | 81-2858 | 1711123159 | RECEIVED: 04/23/82 | JA: LA | MONROE | 12.0 | TEXAS GAS TRANSMI |

| JD NO | JA DKT | API NO | D SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PURCHASER |
|----------------------------|---------|------------|----------|--------------------|-----------------|------------------------|------------------------|
| 8229162 | 81-2664 | 1711123244 | 108 | RECEIVED: 04/23/82 | K D LANKFORD #7 | MONROE | 12.0 TEXAS GAS TRANSMI |
| 8229109 | 81-2888 | 1706720975 | 108 | ARCHIE BROTHERS #1 | MONROE GAS | 11.0 IMC PIPELINE CO I | |
| 8229163 | 81-2682 | 1711120289 | 108 | HUMBLE-ARCO #1 | MONROE GAS | 9.0 MID-LA GAS CO | |
| 8229165 | 81-2683 | 1711120342 | 108 | HUMBLE-ARCO #2 | MONROE GAS | 9.0 MID-LA GAS CO | |
| 8229166 | 81-2684 | 1711120298 | 108 | HUMBLE-ARCO #3 | MONROE GAS | 9.0 MID-LA GAS CO | |
| 8229167 | 81-2686 | 1711120300 | 108 | HUMBLE-ARCO #5 | MONROE GAS | 9.0 MID-LA GAS CO | |
| 8229169 | 81-2687 | 1711120301 | 108 | HUMBLE-ARCO #6 | MONROE GAS | 9.0 MID-LA GAS CO | |
| 8229168 | 81-2688 | 1711120302 | 108 | HUMBLE-ARCO #7 | MONROE GAS | 9.0 MID-LA GAS CO | |
| 8229091 | 81-2853 | 1711120647 | 108 | LA GAS LANDS #2 | MONROE GAS | 13.0 IMC PIPELINE CO I | |
| 8229092 | 81-2854 | 1711120648 | 108 | LA GAS LANDS #3 | MONROE GAS | 13.0 IMC PIPELINE CO I | |
| 8229089 | 81-2851 | 1711120341 | 108 | MONTEREY #1 | MONROE GAS | 13.0 IMC PIPELINE CO I | |
| 8229090 | 81-2852 | 1711120413 | 108 | MONTEREY #2 | MONROE GAS | 13.0 IMC PIPELINE CO I | |
| 8229093 | 81-2855 | 1706720832 | 108 | ROBINSON #1 | MONROE GAS | 2.0 IMC PIPELINE CO I | |
| 8229094 | 81-2856 | 1706720828 | 108 | ROBINSON #2 | MONROE GAS | 8.0 UNITED GAS P L CO | |
| 8229104 | 81-2883 | 1706720829 | 108 | ROBINSON #3 | MONROE GAS | 8.0 UNITED GAS P L CO | |
| 8229105 | 81-2884 | 1706723831 | 108 | ROBINSON #4 | MONROE GAS | 8.0 UNITED GAS P L CO | |
| 8229106 | 81-2885 | 1706720832 | 108 | ROBINSON #5 | MONROE GAS | 8.0 UNITED GAS P L CO | |
| 8229107 | 81-2886 | 1706720833 | 108 | ROBINSON #6 | MONROE GAS | 8.0 UNITED GAS P L CO | |
| 8229108 | 81-2887 | 1706720834 | 108 | ROBINSON #7 | MONROE GAS | 8.0 UNITED GAS P L CO | |
| -MID LOUISIANA GAS COMPANY | | | | | | | |
| 8229135 | 81-2933 | 1711122820 | 108 | RECEIVED: 04/23/82 | JA: LA | 8.8 MID LOUISIANA GAS | |
| 8229141 | 81-2668 | 1711122852 | 108 | MLGC FEE GAS #1003 | MONROE GAS | 19.2 MID LOUISIANA GAS | |
| 8229136 | 81-2934 | 1711123024 | 108 | MLGC FEE GAS #1007 | MONROE GAS | 13.3 MID LOUISIANA GAS | |
| 8229138 | 81-2935 | 1711123025 | 108 | MLGC FEE GAS #1008 | MONROE GAS | 13.2 MID LOUISIANA GAS | |
| 8229142 | 81-2669 | 1711123060 | 108 | MLGC FEE GAS #1014 | MONROE GAS | 13.2 MID LOUISIANA GAS | |
| 8229079 | 81-2863 | 1711123306 | 103 | MLGC FEE GAS #1088 | MONROE GAS | 36.5 MID LOUISIANA GAS | |
| 8229080 | 81-2864 | 1711123307 | 103 | MLGC FEE GAS #1089 | MONROE GAS | 36.5 MID LOUISIANA GAS | |
| 8229125 | 81-2922 | 1711121679 | 108 | MLGC FEE GAS #759 | MONROE GAS | 15.8 MID LOUISIANA GAS | |
| 8229126 | 81-2923 | 1711121834 | 108 | MLGC FEE GAS #772 | MONROE GAS | 19.8 MID LOUISIANA GAS | |
| 8229127 | 81-2924 | 1711121863 | 108 | MLGC FEE GAS #776 | MONROE GAS | 21.3 MID LOUISIANA GAS | |
| 8229144 | 81-2670 | 1711121847 | 108 | MLGC FEE GAS #781 | MONROE GAS | 20.1 MID LOUISIANA GAS | |
| 8229143 | 81-2671 | 1711121853 | 108 | MLGC FEE GAS #787 | MONROE GAS | 19.2 MID LOUISIANA GAS | |
| 8229128 | 81-2925 | 1711121857 | 108 | MLGC FEE GAS #791 | MONROE GAS | 18.1 MID LOUISIANA GAS | |
| 8229145 | 81-2672 | 1711121919 | 108 | MLGC FEE GAS #807 | MONROE GAS | 18.9 MID LOUISIANA GAS | |
| 8229129 | 81-2926 | 1711121922 | 108 | MLGC FEE GAS #810 | MONROE GAS | 18.9 MID LOUISIANA GAS | |
| 8229146 | 81-2673 | 1711121949 | 108 | MLGC FEE GAS #819 | MONROE GAS | 20.3 MID LOUISIANA GAS | |
| 8229147 | 81-2674 | 1711121957 | 108 | MLGC FEE GAS #827 | MONROE GAS | 19.3 MID LOUISIANA GAS | |
| 8229149 | 81-2676 | 1711122536 | 108 | MLGC FEE GAS #908 | MONROE GAS | 6.7 MID LOUISIANA GAS | |
| 8229173 | 81-2917 | 1711122539 | 108 | MLGC FEE GAS #911 | MONROE GAS | 17.3 MID LOUISIANA GAS | |
| 8229122 | 81-2919 | 1711122550 | 108 | MLGC FEE GAS #918 | MONROE GAS | 17.6 MID LOUISIANA GAS | |
| 8229123 | 81-2920 | 1711122552 | 108 | MLGC FEE GAS #920 | MONROE GAS | 6.1 MID LOUISIANA GAS | |
| 8229124 | 81-2921 | 1711122553 | 108 | MLGC FEE GAS #921 | MONROE GAS | 5.1 MID LOUISIANA GAS | |
| 8229124 | 81-2921 | 1711122568 | 108 | MLGC FEE GAS #923 | MONROE GAS | 17.1 MID LOUISIANA GAS | |
| 8229150 | 81-2677 | 1711122568 | 108 | MLGC FEE GAS #929 | MONROE GAS | 12.9 MID LOUISIANA GAS | |
| 8229151 | 81-2678 | 1711122587 | 108 | MLGC FEE GAS #930 | MONROE GAS | 15.3 MID LOUISIANA GAS | |
| 8229130 | 81-2927 | 1711122650 | 108 | MLGC FEE GAS #939 | MONROE GAS | 13.8 MID LOUISIANA GAS | |
| 8229131 | 81-2928 | 1711122651 | 108 | MLGC FEE GAS #940 | MONROE GAS | 14.8 MID LOUISIANA GAS | |
| 8229152 | 81-2679 | 1711122652 | 108 | MLGC FEE GAS #941 | MONROE GAS | 14.6 MID LOUISIANA GAS | |
| 8229153 | 81-2680 | 1711122653 | 108 | MLGC FEE GAS #942 | MONROE GAS | 12.9 MID LOUISIANA GAS | |
| 8229137 | 81-2665 | 1711122676 | 108 | MLGC FEE GAS #953 | MONROE GAS | 14.5 MID LOUISIANA GAS | |
| 8229133 | 81-2929 | 1711122678 | 108 | MLGC FEE GAS #955 | MONROE GAS | 6.4 MID LOUISIANA GAS | |
| 8229132 | 81-2930 | 1711122686 | 108 | MLGC FEE GAS #963 | MONROE GAS | 19.5 MID LOUISIANA GAS | |

| JD NO | JA 9KT | API NO | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROC | PURCHASER |
|---------|---------|------------|-----------|----------|--|------------------------|--------|-------------------|
| 8229134 | 81-2931 | 1707321445 | 108 | | MLGC FEE GAS #969 | MONROE GAS FIELD | 20.0 | MID LOUISIANA GAS |
| 8229140 | 81-2666 | 1707321465 | 108 | | MLGC FEE GAS #977 | MONROE GAS FIELD | 14.3 | MID LOUISIANA GAS |
| 8229139 | 81-2667 | 1711122748 | 108 | | MLGC FEE GAS #999 | MONROE GAS FIELD | 20.0 | MID LOUISIANA GAS |
| 8229148 | 81-2675 | 1707321391 | 108 | | MLGC GTC #K1 | MONROE GAS FIELD | 18.8 | MID LOUISIANA GAS |
| | | | RECEIVED: | 04/23/82 | JA: LA | | | |
| | | | 103 | | HANDY HEIRS #2 | MONROE | 11.3 | PETRO LEWIS FUNDS |
| 8229103 | 81-2882 | 1711123414 | 103 | | STUBBS #2 | MONROE | 11.3 | PETRO-LEWIS FUNDS |
| 8229102 | 81-2881 | 1711123407 | 103 | | UNION PRODUCING CO NO 1 | MONROE | 24.7 | PETRO-LEWIS FUNDS |
| 8229100 | 81-2879 | 1711123402 | 103 | | UNION PRODUCING COMPANY #3 | MONROE | 21.3 | PETRO LEWIS FUNDS |
| 8229101 | 81-2880 | 1711123406 | 103 | | RECEIVED: 04/23/82 | MONROE | 1.5 | IMC PIPELINE CO I |
| | | | RECEIVED: | 04/23/82 | JA: LA | | | |
| | | | 103 | | CORDELL #1 | MONROE | 13.0 | TEXAS GAS TRANSMI |
| | | | RECEIVED: | 04/23/82 | JA: LA | | | |
| | | | 102-2 | | 137-TF H D GREEN #6 | MONROE | 11.0 | TEXAS GAS TRANSMI |
| 8229088 | 81-2810 | 1711122920 | 102-2 | | 107-TF HOPKINS #9 | MONROE | 11.0 | TEXAS GAS TRANSMI |
| 8229086 | 81-2809 | 1711122840 | 102-2 | | 107-TF HOPKINS ESTATE #8 | MONROE | 360.0 | SUGAR BOWL GAS CO |
| | | | RECEIVED: | 04/23/82 | JA: LA | | | |
| | | | 103 | | RAYMOND KLUMPP #1 | NORTH TEPEPATE | 803.0 | KAISER ALUMINUM & |
| | | | RECEIVED: | 04/23/82 | JA: LA | | | |
| | | | 103 | | BSE U-31 #30 13500 RK VUA | BAY ST ELAINE | 7.0 | SOUTHERN NATURAL |
| 8229096 | 81-2694 | 1710922013 | 103 | | SL 214 GARDEN ISLAND BAY #845 | GARDEN ISLAND BAY | 366.0 | KAISER ALUMINUM & |
| 8229118 | 81-2695 | 1707522361 | 103 | | SL 301 #349 UPR 70-B R060 VUA | CAILLOU ISLAND | 8.0 | KAISER ALUMINUM & |
| 8229095 | 81-2693 | 1710922119 | 103 | | SL 301 TERREBONNE BAY #334 | CAILLOU ISLAND | 54.0 | SOUTHERN NATURAL |
| 8229119 | 81-2696 | 1710921894 | 103 | | RECEIVED: 04/23/82 | ELOI BAY | 2685.0 | TEXAS GAS TRANSMI |
| | | | RECEIVED: | 04/23/82 | JA: LA | | | |
| | | | 103 | | STATE LEASE 2220 #58-D | PARCERDUE | 265.0 | CONSUMERS POWER C |
| 8229121 | 81-2503 | 1772720110 | 103 | | RECEIVED: 04/22/82 | MARATHON | 7.3 | CONSUMERS POWER C |
| | | | RECEIVED: | 04/22/82 | JA: MI | | | |
| | | | 103 | | STATE KALKASKA /6/ #3-25 | KALKASKA 25-27N-8W | 11.0 | DOM CHEMICAL CO |
| 8229232 | | 2107935005 | 103 | | RECEIVED: 04/22/82 | RICH | 23.0 | SOUTHEASTERN MICH |
| | | | RECEIVED: | 04/22/82 | JA: MI | | | |
| | | | 102-4 | | KERN #13-22 | ENTERPRISE | 15.0 | EL PASO NATURAL G |
| 8229235 | | 2108734592 | 102-4 | | RECEIVED: 04/22/82 | BASIN DAKOTA | 18.0 | EL PASO NATURAL G |
| | | | RECEIVED: | 04/22/82 | JA: MI | | | |
| | | | 103 | | ENTERPRISE UNIT #3-7 | EUNICE MONUMENT/GRAYB | 4.4 | WARREN PETROLEUM |
| 8229233 | | 2111333536 | 103 | | RECEIVED: 04/22/82 | BASIN DAKOTA | 1500.0 | SOUTHERN UNION GA |
| | | | RECEIVED: | 04/22/82 | JA: MI | | | |
| | | | 103 | | RICH FIELD UNIT TRACT 21 #2 | ANTELOPE RIDGE (ATOKA) | 1825.0 | UNITED GAS PIPE L |
| 8229234 | | 2108734116 | 103 | | RECEIVED: 04/22/82 | BASIN DAKOTA | 100.0 | EL PASO NATURAL G |
| | | | RECEIVED: | 04/22/82 | JA: MI | | | |
| | | | 103 | | NEW MEXICO DEPARTMENT OF ENERGY & MINERALS | AZTEC PICTURED CLIFFS | 125.0 | EL PASO NATURAL G |
| | | | RECEIVED: | 04/22/82 | JA: NM | | | |
| | | | 108 | | DUFF GAS COM "C" #1 (3RD) | AZTEC PICTURED CLIFFS | 90.0 | EL PASO NATURAL G |
| 8229011 | | 3004509134 | 108 | | RECEIVED: 04/22/82 | AZTEC PICTURED CLIFFS | 125.0 | EL PASO NATURAL G |
| | | | RECEIVED: | 04/22/82 | JA: NM | | | |
| | | | 108 | | STATE GAS COM "BC" #1 (2ND) | AZTEC PICTURED CLIFFS | 100.0 | EL PASO NATURAL G |
| 8229001 | | 3004510203 | 108 | | RECEIVED: 04/22/82 | AZTEC PICTURED CLIFFS | 125.0 | EL PASO NATURAL G |
| | | | RECEIVED: | 04/22/82 | JA: NM | | | |
| | | | 108 | | NELDA B BORDAGES #1 | AZTEC PICTURED CLIFFS | 125.0 | EL PASO NATURAL G |
| 8229013 | | 3002505718 | 108 | | RECEIVED: 04/22/82 | AZTEC PICTURED CLIFFS | 125.0 | EL PASO NATURAL G |
| | | | RECEIVED: | 04/22/82 | JA: NM | | | |
| | | | 103 | | STATE A COM #1E (DA) | AZTEC PICTURED CLIFFS | 100.0 | EL PASO NATURAL G |
| 8229026 | | 374525147 | 103 | | RECEIVED: 04/22/82 | AZTEC PICTURED CLIFFS | 125.0 | EL PASO NATURAL G |
| | | | RECEIVED: | 04/22/82 | JA: NM | | | |
| | | | 102-2 | | STATE 2 8006 JV-P #1 | AZTEC PICTURED CLIFFS | 100.0 | EL PASO NATURAL G |
| 8229009 | | 3002527486 | 102-2 | | RECEIVED: 04/22/82 | AZTEC PICTURED CLIFFS | 125.0 | EL PASO NATURAL G |
| | | | RECEIVED: | 04/22/82 | JA: NM | | | |
| | | | 103 | | AZTEC #8 | AZTEC PICTURED CLIFFS | 100.0 | EL PASO NATURAL G |
| 8229021 | | 3004524695 | 103 | | RECEIVED: 04/22/82 | AZTEC PICTURED CLIFFS | 125.0 | EL PASO NATURAL G |
| | | | RECEIVED: | 04/22/82 | JA: NM | | | |
| | | | 103 | | AZTEC #9 | AZTEC PICTURED CLIFFS | 100.0 | EL PASO NATURAL G |
| 8229022 | | 3004524699 | 103 | | RECEIVED: 04/22/82 | AZTEC PICTURED CLIFFS | 125.0 | EL PASO NATURAL G |
| | | | RECEIVED: | 04/22/82 | JA: NM | | | |
| | | | 103 | | FEE #12 | AZTEC PICTURED CLIFFS | 100.0 | EL PASO NATURAL G |
| 8229025 | | 3004524089 | 103 | | RECEIVED: 04/22/82 | AZTEC PICTURED CLIFFS | 125.0 | EL PASO NATURAL G |
| | | | RECEIVED: | 04/22/82 | JA: NM | | | |
| | | | 103 | | FEE #8-A | AZTEC PICTURED CLIFFS | 100.0 | EL PASO NATURAL G |
| 8229023 | | 3004524693 | 103 | | RECEIVED: 04/22/82 | AZTEC PICTURED CLIFFS | 125.0 | EL PASO NATURAL G |
| | | | RECEIVED: | 04/22/82 | JA: NM | | | |
| | | | 103 | | FEE #9-Y | AZTEC PICTURED CLIFFS | 100.0 | EL PASO NATURAL G |
| 8229024 | | 3004524840 | 103 | | RECEIVED: 04/22/82 | AZTEC PICTURED CLIFFS | 125.0 | EL PASO NATURAL G |

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| JD NO | JA DAT | API NO | D SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROL | PURCHASER |
|-----------------------------|--------|------------|----------|-----------|------------|-----------------|-------|-------------------|
| 8229270 | 13726 | 3503920411 | 103 | | REINSON #1 | NW ANTHON | 73.8 | EL PASO NATURAL G |
| 8229269 | 13727 | 3514920120 | 103 | | TOLLE #1 | SIXTY SIX | 198.0 | EL PASO NATURAL G |
| -APOLLO PRODUCTION LTD | | | | | | | | |
| 8229259 | 13822 | 3507322795 | 103 | RECEIVED: | 04/23/82 | NE OKARCHE | 0.0 | SID RICHARDSON CA |
| -ARCO OIL AND GAS COMPANY | | | | | | | | |
| 8229258 | 16386 | 3504321223 | 102-4 | RECEIVED: | 04/23/82 | PUTNAM | 365.0 | |
| -ATLAS OIL INC | | | | | | | | |
| 8229238 | 16730 | 3508321930 | 102-2 | RECEIVED: | 04/23/82 | WEST GUTHRIE | 36.5 | EASON OIL CO |
| -BOBBY J DARNELL | | | | | | | | |
| 8229276 | 13675 | 3508321631 | 103 | RECEIVED: | 04/22/82 | CRESCENT-LOBELL | 109.5 | EASON OIL CO |
| -80GFERT OIL CO | | | | | | | | |
| 8229231 | 13614 | 3507323143 | 103 | RECEIVED: | 04/22/82 | SOONER TREND | 425.0 | PHILLIPS PETROLEU |
| 8229187 | 11652 | 3508321671 | 103 | RECEIVED: | 04/22/82 | SOONER TREND | 165.0 | EASON OIL CO |
| -CHAMPLIN PETROLEUM COMPANY | | | | | | | | |
| 8229218 | 13659 | 3509322310 | 103 | RECEIVED: | 04/22/82 | E CHANEY DELL | 0.0 | CHAMPLIN PETROLEU |
| -CLARK RESOURCES INC | | | | | | | | |
| 8229199 | 13565 | 3507323207 | 103 | RECEIVED: | 04/22/82 | SOONER TREND | 70.0 | CONOCO INC |
| -CONTINENTAL RESOURCES CORP | | | | | | | | |
| 8229212 | 13607 | 3509300000 | 103 | RECEIVED: | 04/22/82 | CAMPBELL | 6.0 | MICHIGAN-WISCONSI |
| -COOK OPERATING CO | | | | | | | | |
| 8229227 | 13642 | 3511720481 | 103 | RECEIVED: | 04/22/82 | NORTH TERLTON | 36.5 | H J D CATTLE CO |
| -CUMMINGS OIL CO | | | | | | | | |
| 8229216 | 13653 | 3508321822 | 103 | RECEIVED: | 04/22/82 | NW GUTHRIE | 0.0 | EASON OIL CO |
| -DAMSON OIL CORPORATION | | | | | | | | |
| 8229224 | 13647 | 3515121154 | 103 | RECEIVED: | 04/22/82 | N W AVARD | 30.0 | DELHI GAS PIPELIN |
| -DOME PETROLEUM CORP | | | | | | | | |
| 8229215 | 13605 | 3513722585 | 103 | RECEIVED: | 04/22/82 | EAST DUNCAN | 50.0 | GETTY OIL CO |
| 8229214 | 13604 | 3513722743 | 103 | RECEIVED: | 04/23/82 | EAST DUNCAN | 40.9 | GETTY OIL CO |
| -DYCO PETROLEUM CORPORATION | | | | | | | | |
| 8229260 | 13422 | 3512120635 | 103 | RECEIVED: | 04/22/82 | SOUTH FARGO | 189.0 | PRODUCERS GAS CO |
| -EDWIN L COX | | | | | | | | |
| 8229183 | 13545 | 3515321173 | 103 | RECEIVED: | 04/23/82 | SOUTH PEEK | 17.6 | PANHANDLE EASTERN |
| -ENERGY RESERVES GROUP INC | | | | | | | | |
| 8229255 | 13788 | 3534520697 | 108 | RECEIVED: | 04/22/82 | CHANEY DELL | 8.1 | UNION TEXAS PETRO |
| 8229251 | 13768 | 3500320621 | 108 | RECEIVED: | 04/22/82 | PIERCE | 16.0 | PHILLIPS PETROLEU |
| 8229253 | 13765 | 3509120152 | 108 | RECEIVED: | 04/22/82 | WEST CHESTER | 16.5 | PANHANDLE EASTERN |
| 8229252 | 13766 | 3515320864 | 108 | RECEIVED: | 04/22/82 | SOONER TREND | 76.7 | ONG WESTERN INC |
| -F C D OIL CORP | | | | | | | | |
| 8229226 | 13644 | 3507323127 | 103 | RECEIVED: | 04/23/82 | ALLEN | 5.9 | SUN GAS CO |
| -FLINT & ASSOCIATES | | | | | | | | |
| 8229274 | 13699 | 3512320886 | 103 | RECEIVED: | 04/22/82 | SOONER TREND | 36.0 | CRA INC |
| -FUSULINA PETROLEUM CORP | | | | | | | | |
| 8229190 | 13584 | 3504722466 | 103 | RECEIVED: | 04/22/82 | SW GOLDEN TREND | 0.0 | TRANSOK PIPE LINE |
| -GEORGE E FEARS | | | | | | | | |
| 8229219 | 13730 | 3508321132 | 103 | RECEIVED: | 04/22/82 | KINTA | 275.0 | ARKANSAS LOUISIAN |
| -GEORGE RODMAN INC | | | | | | | | |
| 8229217 | 13657 | 3505121105 | 103 | RECEIVED: | 04/22/82 | S E FAY | 75.0 | EL PASO NATURAL G |
| -GUARDIAN OIL CO | | | | | | | | |
| 8229285 | 13577 | 3507920392 | 103 | RECEIVED: | 04/22/82 | E KINGFISHER | 55.0 | MUSTANG FUEL CORP |
| -HARPER OIL COMPANY | | | | | | | | |
| 8229193 | 13570 | 3501120955 | 103 | RECEIVED: | 04/23/82 | | | |
| 8229192 | 13569 | 3507323210 | 103 | RECEIVED: | 04/23/82 | | | |
| -INEXCO OIL COMPANY | | | | | | | | |

| JD NO | JA [KT | API NO | SFC(2) & FULL NAME | VOLUME | 649 | FIELD NAME | PROC | PURCHASER |
|-----------------------------------|--------|------------|---|-------------------------|---|------------|---|-----------|
| 8229236 | 17953 | 3503920561 | NOBLE #1-20 RECEIVED: 04/22/82 | 73.0 | UNDESIGNATED | 73.0 | PANHANDLE | EASTERN |
| -J L THOMAS ENGINEERING INC. | | | EMIL #1 FRANK #1 MEYER #1 | 144.0 31.0 120.0 | SOONER TREND SOONER TREND SOONER TREND | | EXXON USA EXXON USA PHILLIPS | PETROLEU |
| -KAISER-FRANCIS OIL COMPANY | | | WILMOT #1 MERLE WILSON #1-7 REGIER #1 REDMAN #1 | 30.0 128.0 | MOCANE LAVERNE SOONER TREND | | MICHIGAN EASON OIL CO | WISCONSI |
| -L & N EXPLORATION INC | | | FARWELL #2 HUGHES #1-A PAULINE #1 HOWARD LEASE #4 HOWARD LEASE #5 | 54.0 36.0 | SOUTH MULHALL | | CHAMPLIN EASON OIL CO | PETROLEU |
| -LAGUNA PETROLEUM CO | | | VANN #2 (103-73609) VANN #C #1 (103-73608) | 0.0 | SOUTH MULHALL | | ARKANSAS | LOUISIAN |
| -LANCER ENERGY CORP | | | RECEIVED: 04/23/82 | 60.0 | NORTH HORNTOWN | | TRANSOK | PIPELINE |
| -LAWMASTER DRILLING CO | | | RECEIVED: 04/22/82 | 0.0 | WILD CAT | | ARCO OIL & GAS CO | |
| -LEMA PETROLEUM INC | | | RECEIVED: 04/23/82 | 36.5 18.0 | CUSHING NE SE NE SEC CUSHING SW NE NE OF S | | KERR-MCGEE CORP KERR-MCGEE CORP | |
| -LINCOLN PETROLEUM RESOURCES CORP | | | RECEIVED: 04/23/82 | 109.5 | WILD CAT | | AMINOIL USA INC | |
| -M FRANK & BETTY L WATSON | | | RECEIVED: 04/23/82 | 300.0 425.0 350.0 | NORTHEAST OAKWOOD NORTHEAST OAKWOOD RED OAK | | DELHI GAS PIPELIN DELHI GAS PIPELIN ARKANSAS LOUISIAN | |
| 8229197 13600 | | 3503722025 | SMRCKA | 0.0 | MAUKOWIS | | CONOCO INC | |
| 8229198 13601 | | 3503722103 | CLARA 12-2 | 89.4 | MAUKOWIS | | PARTNERSHIP PROPE | |
| -MAY PETROLEUM INC | | | STAMPS #1 | 0.0 | GUYMON HUGOTON | | PANHANDLE | EASTERN |
| 8229243 16667 | | 7510321646 | SEABROOK NO 1 | 200.0 | LAKE GUTHRIE SOUTH | | WESTERN STATES GA | |
| 8229244 16668 | | 3510321653 | DICKERSON #1-3 | 43.2 | N E PIEDMONT | | CONTINENTAL OIL C | |
| -MUSTANG PRODUCTION CO. | | | PICKARD 1-29 | 676.0 | S GRACEMONT | | TENNESSEE GAS PIP | |
| 8229280 13662 | | 3504321253 | CHASTEL #1-35 | 33.0 | NW GUINLAN | | DELHI GAS PIPELIN | |
| 8229278 13664 | | 3504321286 | BENNETT #2-20 | 25.9 | PIEDMONT | | DELHI GAS PIPELIN | |
| 8229279 13663 | | 3507723234 | BURNETT #1-23 | 693.5 | PIEDMONT | | DELHI GAS PIPELIN | |
| -OKLAND OIL CO | | | EVERY #1-31 | 264.0 | PIEDMONT | | EL PASO NATURAL G | |
| 8229181 13548 | | 3501721760 | EVERY #1-6 | 25.0 | PIEDMONT | | PANHANDLE | EASTERN |
| -PETRO-LEWIS CORPORATION | | | GARVEY #1-8 | 803.0 | S E FAY | | | |
| *8229262 13424 | | 3509300000 | MIKLES #1-17 | 133.2 | PANHANDLE | | | |
| -PHILLIPS PETROLEUM COMPANY | | | HESTER #1-5 | 52.9 | SUN GAS CO | | | |
| 8229282 13626 | | 3513900000 | | | | | | |
| -RICHARD W THOMPSON INC | | | | | | | | |
| 8229239 16727 | | 3508322002 | | | | | | |
| -RICK BUCK | | | | | | | | |
| 8229210 13612 | | 3501721987 | | | | | | |
| -RICKS EXPLORATION CO | | | | | | | | |
| 8229237 17542 | | 3501521116 | | | | | | |
| -SEARCH DRILLING CO | | | | | | | | |
| 8229189 13383 | | 3515321116 | | | | | | |
| -SENECA OIL COMPANY | | | | | | | | |
| 8229246 16141 | | 3501722073 | | | | | | |
| 8229247 16143 | | 3504321214 | | | | | | |
| 8229250 14516 | | 3501721923 | | | | | | |
| 8229248 12174 | | 3501721814 | | | | | | |
| 8229245 15304 | | 3501721931 | | | | | | |
| 8229249 13696 | | 3501121575 | | | | | | |
| 8229242 16716 | | 3513921517 | | | | | | |
| -SHELL OIL CO | | | | | | | | |
| 8229267 13588 | | 3508700000 | | | | | | |

| JD NO | JA DKT | API NO | SEC(1) | SEC(2) | WELL NAME | VOLUME | 649 | PAGE | 007 | PROD | PURCHASER |
|---------|--------|------------|-----------|----------|---------------------------|--------|--------|------|-----|--------|-------------------|
| 8229230 | 13623 | 3508321607 | RECEIVED: | 04/22/82 | WHORLEY #1 | 103 | JA: OK | | | | |
| 8229188 | 1191* | 3508320291 | RECEIVED: | 04/22/82 | PHILLIPS #1 | 102-2 | JA: OK | | | 0.0 | EASON OIL CO |
| 8229185 | 00849 | 3507321896 | RECEIVED: | 04/22/82 | KATHY #34 #1 | 103 | JA: OK | | | 73.0 | SERVICE DRILLING |
| 8229184 | 13544 | 3510321414 | RECEIVED: | 04/22/82 | TURNER #3 | 103 | JA: OK | | | 36.0 | COMOCO INC |
| 8229257 | 13797 | 3504722473 | RECEIVED: | 04/23/82 | EDDIE G MORAVEC "A" #3 | 103 | JA: OK | | | 9.5 | CITIES SERVICE GA |
| 8229254 | 13795 | 3505121125 | RECEIVED: | 04/23/82 | NORGE MARCHAND UNIT #63-2 | 103 | JA: OK | | | 35.0 | EXXON CO USA |
| 8229240 | 16696 | 3512521137 | RECEIVED: | 04/22/82 | SMITH #1 | 102-2 | JA: OK | | | 179.0 | PUBLIC SERVICE CO |
| 8229182 | 13546 | 3501123965 | RECEIVED: | 04/22/82 | GREENE #1 | 103 | JA: OK | | | 229.0 | BETHEL GAS CO |
| 8229191 | 13421 | 3507322651 | RECEIVED: | 04/22/82 | MELVIN HILL #1 | 103 | JA: OK | | | 0.0 | DELHI GAS PIPELIN |
| 8229220 | 13741 | 3515323460 | RECEIVED: | 04/23/82 | COX #1 | 108 | JA: OK | | | 197.1 | PHILLIPS PETROLEU |
| 8229283 | 13620 | 3514921057 | RECEIVED: | 04/23/82 | ALLISON 1-3 | 103 | JA: OK | | | 11.0 | DELHI GAS PIPELIN |
| 8229194 | 13590 | 3510321395 | RECEIVED: | 04/22/82 | VIOLA VANBERBER #1 | 103 | JA: OK | | | 1379.0 | SOUTHERN NATURAL |
| 8229228 | 13625 | 3509520284 | RECEIVED: | 04/22/82 | ALLEN #1-24 | 103 | JA: OK | | | 65.0 | AMINOIL USA INC |
| 8229265 | 16506 | 3508321516 | RECEIVED: | 04/23/82 | FITZPATRICK #1 | 102-2 | JA: OK | | | 40.0 | |
| 8229186 | 11425 | 3508321580 | RECEIVED: | 04/22/82 | TUCKER #1 | 103 | JA: OK | | | 34.7 | EASON OIL CO |
| 8229256 | 13801 | 3507322665 | RECEIVED: | 04/23/82 | GLENDALE #1 | 103 | JA: OK | | | 90.0 | EASON OIL CO |
| 8229208 | 13560 | 3510500000 | RECEIVED: | 04/22/82 | ROBBINS - MAPLES #1 | 103 | JA: OK | | | 36.5 | PHILLIPS PETROLEU |
| 8229207 | 13559 | 3510500000 | RECEIVED: | 04/22/82 | ROBBINS - MAPLES #2 | 103 | JA: OK | | | 1.0 | R & M PIPELINE CO |
| 8229206 | 13558 | 3510500000 | RECEIVED: | 04/22/82 | ROBBINS - MAPLES #3 | 103 | JA: OK | | | 1.0 | R & M PIPELINE CO |
| 8229205 | 13557 | 3510500000 | RECEIVED: | 04/22/82 | ROBBINS - MAPLES #4 | 103 | JA: OK | | | 1.0 | R & M PIPELINE CO |
| 8229204 | 13556 | 3510500000 | RECEIVED: | 04/22/82 | ROBBINS - MAPLES #5 | 103 | JA: OK | | | 1.0 | R & M PIPELINE CO |
| 8229203 | 13555 | 3510525175 | RECEIVED: | 04/22/82 | ROBBINS - MAPLES #6 | 103 | JA: OK | | | 1.0 | R & M PIPELINE CO |
| 8229202 | 13554 | 3510525176 | RECEIVED: | 04/22/82 | ROBBINS - MAPLES #7 | 103 | JA: OK | | | 1.0 | R & M PIPELINE CO |
| 8229201 | 13553 | 3510500000 | RECEIVED: | 04/22/82 | ROBBINS - MAPLES #8 | 103 | JA: OK | | | 1.0 | R & M PIPELINE CO |
| 8229200 | 13552 | 3510525177 | RECEIVED: | 04/22/82 | ROBBINS - MAPLES #9 | 103 | JA: OK | | | 1.0 | R & M PIPELINE CO |
| 8229225 | 13645 | 3504921585 | RECEIVED: | 04/22/82 | GOODSON #2-18 | 103 | JA: OK | | | 0.0 | BUCKEYE NATURAL G |
| 8229195 | 13594 | 3510321393 | RECEIVED: | 04/22/82 | STEICHEN #2 | 103 | JA: OK | | | 15.0 | ARCO OIL & GAS CO |
| 8229275 | 13684 | 3501700000 | RECEIVED: | 04/23/82 | BARRETT "A" #2 | 103 | JA: OK | | | 680.0 | MUSTANG FUEL CORP |
| 8229176 | | 4502720444 | RECEIVED: | 04/23/82 | LON B ROGERS #24-092661 | 103 | JA: VA | | | 81.0 | CONSOLIDATED GAS |

VIRGINIA DEPARTMENT OF LABOR & INDUSTRY
 VIRGINIA GAS FIELD
 ASHLAND EXPLORATION INC

FIELD NAME
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RECEIVED: 04/23/82
 103 SAMUEL E ROSE #P-111
 107-TF SAMUEL E ROSE #P-110
 107-TF SAMUEL E ROSE #P-111
 107-TF STEINMAN DEVELOPMENT CO #P-120
 163 STEINMAN DEVELOPMENT CO #P-121
 107-TF STEINMAN DEVELOPMENT CO #P-121

API NO
 4505120431
 4505120430
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 4505120401
 4505120401

JA DKT
 PHILADELPHIA OIL CO

SOLDIER CANYON
 ROCK CANYON
 HAMM CANYON
 DOUGLAS CREEK
 TEXAS MOUNTAIN

RECEIVED: 04/23/82
 108-ER SC 1-1 (1-E-1) C-4434
 RECEIVED: 04/23/82
 103 NORTHWEST FEDERAL #13-7
 RECEIVED: 04/23/82
 102-2 HAMM CANYON 14-26 #1
 RECEIVED: 04/23/82
 103 DRAGON TRAIL UNIT #58
 108 TEXAS MOUNTAIN #7
 RECEIVED: 04/23/82
 102-2 ARCO-FEDERAL #11-4-5-103
 102-2 FEDERAL #11-8-13-103
 102-2 FEDERAL #12-13-3-104
 102-2 FEDERAL #13-16-1S-103
 102-2 FEDERAL #13-25-4-104
 102-2 FEDERAL #15-9-5-103
 102-2 FEDERAL #2-15-1S-103
 102-2 FEDERAL #3-14-4-104
 107-TF FEDERAL #3-32-4-101
 102-2 FEDERAL #8-23-1S-103
 107-TF FEDERAL #9-34-4-101
 102-2 FEDERAL 5-25-4-104
 RECEIVED: 04/23/82
 103 MOUNTAIN FEDERAL #1-12
 RECEIVED: 04/23/82
 108 LOWER HORSE DRAW 10-11
 RECEIVED: 04/23/82
 108 IGNACIO 33-7 10
 108 IGNACIO 33-7 11
 RECEIVED: 04/23/82
 102-2 SAGEBRUSH HILLS UNIT 2 #36B-1-100
 RECEIVED: 04/23/82
 103 TENNECO FEES B USA #24-13
 RECEIVED: 04/23/82
 107-RT CONTINENTAL 1-28
 107-TF CONTINENTAL 1-9
 107-TF CONTINENTAL 2-16
 107-TF CONTINENTAL 2-20
 107-RT CONTINENTAL 2-28
 107-TF CONTINENTAL 3-8
 107-TF RAINBOW-CONTINENTAL 1-21
 107-TF TERRA 1-26
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AMERICAN RESOURCES MANAGEMENT SERVICE, DENVER*CO
 AMERICAN RESOURCES MANAGEMENT CORPO
 BEARTOOTH OIL & GAS CO
 CHAMPLIN PETROLEUM COMPANY
 CONOCO INC
 JOSEPH B GOULD
 NORTHWEST PIPELINE CORPORATION
 SUN OIL COMPANY (DELAWARE)
 TENNECO OIL COMPANY
 TWIN ARROW INC

187.3 KENTUCKY WEST VIR
 43.5 KENTUCKY WEST VIR
 33.7 KENTUCKY WEST VIR
 285.9 KENTUCKY WEST VIR
 156.7 KENTUCKY WEST VIR
 23.9 KENTUCKY WEST VIR

54.0 NORTHWEST PIPELIN
 20.0 NORTHWEST PIPELIN
 347.0 NORTHWEST PIPELIN
 183.0 WESTERN SLOPE GAS
 18.3 MOUNTAIN FUEL SUP
 167.8 SOUTHWEST GAS CO
 23.2 MONO POWER CO
 700.0 NORTHWEST PIPELIN
 91.8 NATURAL GAS CORP
 169.9 NATURAL GAS CORP
 344.9 NATURAL GAS CORP
 438.0 NATURAL GAS CORP
 204.5 NATURAL GAS CORP
 23.4 SOUTHWEST GAS COR
 42.3 MONO POWER CO
 534.0 SOUTHWEST GAS COR
 52.6 NATURAL GAS CORP
 275.0 MOUNTAIN FUEL SUP
 13.0 MOUNTAIN FUEL SUP
 21.0 NORTHWEST PIPELIN
 2.5 NORTHWEST PIPELIN
 329.0 NORTHERN NATURAL
 25.0
 54.6 NORTHWEST PIPELIN
 9.4 NORTHWEST PIPELIN
 26.0 NORTHWEST PIPELIN
 8.4 NORTHWEST PIPELIN
 64.9 NORTHWEST PIPELIN
 50.5 NORTHWEST PIPELIN
 57.0 NORTHWEST PIPELIN
 0.0 NORTHWEST PIPELIN

MINERALS MANAGEMENT SERVICE, DENVER*CO
 FEDERAL #11-4-5-103
 FEDERAL #12-13-3-104
 FEDERAL #13-16-1S-103
 FEDERAL #13-25-4-104
 FEDERAL #15-9-5-103
 FEDERAL #2-15-1S-103
 FEDERAL #3-14-4-104
 FEDERAL #3-32-4-101
 FEDERAL #8-23-1S-103
 FEDERAL #9-34-4-101
 FEDERAL 5-25-4-104
 MOUNTAIN FEDERAL #1-12
 LOWER HORSE DRAW 10-11
 IGNACIO 33-7 10
 IGNACIO 33-7 11
 SAGEBRUSH HILLS UNIT 2 #36B-1-100
 TENNECO FEES B USA #24-13
 CONTINENTAL 1-28
 CONTINENTAL 1-9
 CONTINENTAL 2-16
 CONTINENTAL 2-20
 CONTINENTAL 2-28
 CONTINENTAL 3-8
 RAINBOW-CONTINENTAL 1-21
 TERRA 1-26

MINERALS MANAGEMENT SERVICE, DENVER*CO
 FEDERAL #11-4-5-103
 FEDERAL #12-13-3-104
 FEDERAL #13-16-1S-103
 FEDERAL #13-25-4-104
 FEDERAL #15-9-5-103
 FEDERAL #2-15-1S-103
 FEDERAL #3-14-4-104
 FEDERAL #3-32-4-101
 FEDERAL #8-23-1S-103
 FEDERAL #9-34-4-101
 FEDERAL 5-25-4-104
 MOUNTAIN FEDERAL #1-12
 LOWER HORSE DRAW 10-11
 IGNACIO 33-7 10
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 SAGEBRUSH HILLS UNIT 2 #36B-1-100
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| JD NO | JA DKT | AFI NO | D SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROL | PURCHASER |
| 8229040 | CD 0047-82 | 0510308774 | 103 | | MFS FEDERAL #7-1 | | | |
| | -KANSAS-NEBRASKA NATURAL GAS CO INC | | RECEIVED: | 04/23/82 | JA: KS 1 | | | 139.6 MOUNTAIN FUEL RES |
| 8229067 | | 1509320687 | 103 | | KRIETE 2-2 | | | |
| | -ARCO OIL AND GAS COMPANY | | RECEIVED: | 04/23/82 | JA: UT 1 | | | 87.0 KANSAS-NEBRASKA N |
| 8229068 | | 4304730765 | 103 | | BLACK HORSE CANYON #31-1 | | | |
| | -COASTAL OIL & GAS CORP | | RECEIVED: | 04/23/82 | JA: UT 1 | | | 36.5 MESA PIPE LINE CO |
| 8229052 | UD 0060-82 | 4304730724 | 103 | | 107-TF NATURAL BUTTES UNIT #37XP | | | 0.0 COLORADO INTERSTA |
| 8229051 | UD 0096-82 | 4304730534 | 103 | | 107-TF NATURAL BUTTES UNIT #47N2 | | | 547.0 COLORADO INTERSTA |
| | -CONOCO INC | | RECEIVED: | 04/23/82 | JA: UT 1 | | | |
| 8229053 | UD 0457-81 | 4304740667 | 107-TF | | CONOCO UTE TRIBAL 6 #1 | | | 150.0 MOUNTAIN FUEL SUP |
| | -EMSERCH EXPLORATION INC | | RECEIVED: | 04/23/82 | JA: UT 1 | | | |
| 8229070 | UD 0159-81 | 4304730524 | 103 | | BITTERCREEK FEDERAL #1-3 | | | 328.0 |
| | -EXXON CORPORATION | | RECEIVED: | 04/23/82 | JA: UT 1 | | | |
| 8229069 | | 4304730386 | 102-2 | | CROOKED CANYON UNIT #2L | | | 15.0 |
| 8229065 | | 4304730386 | 102-2 | | CROOKED CANYON UNIT #2U | | | 22.0 |
| | -J C THOMPSON | | RECEIVED: | 04/23/82 | JA: UT 1 | | | |
| 8229033 | UD 0083-82 | 4301915658 | 108 | | WESTWATER E-2 | | | 1.8 NORTHWEST PIPELIN |
| | -TEXACO INC | | RECEIVED: | 04/23/82 | JA: UT 1 | | | |
| 8229072 | | 4303730715 | 103 | | ANETH UNIT #H-335 | | | 22.9 EL PASO NATURAL G |
| | -WEXPRO CO | | RECEIVED: | 04/23/82 | JA: UT 1 | | | |
| 8229035 | UD 0097-82 | 4303730610 | 102-2 | | BUG #13 | | | 412.0 MOUNTAIN FUEL RES |

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8229262 CITIZEN SERVICE GAS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential

under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission by June 4, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper

107-GB: Geopressured brine
107-CS: Coal seams
107-DV: Devonian shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation

Section 108: Stripper well

108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13914 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 650]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 17, 1982.

| JD NO | JA DKT | API NO | D SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROC | PURCHASER |
|---|-------------|------------|-----------|----------|------------------------------|-----------------------|-------|-------------------|
| ALABAMA OIL & GAS BOARD | | | | | | | | |
| -ANDERMAN OPERATING COMPANY | | | | | | | | |
| 8229419 | 4-16-828PD | 0107520396 | RECEIVED: | 04/27/82 | COATS 4-1 #1 | NORTH BLOWHORN CREEK | 18.0 | |
| 8229418 | 4-16-828PD | 0107520401 | 102-2 | | FRANCES THOMAS 7-1 #1 | STAR | 182.0 | |
| 8229417 | 4-16-827PD | 0107520404 | 102-4 | | 000H 18-12 #1 | STAR | 730.0 | |
| 8229414 | 4-16-826PD | 0107520399 | 102-2 | | 000M 29-3 #1 | FERNBANK | 547.0 | |
| 8229416 | 4-16-826PD | 0107520397 | 102-4 | | 000M 9-3 #1 | BEAVERTON | 365.0 | |
| -CARLESS RESOURCES INC | | | | | | | | |
| 8229409 | 3-5-8212PD | 0112520046 | RECEIVED: | 04/27/82 | J R TIERCE 1-11 | LEXINGTON | 155.0 | SOUTHERN NATURAL |
| -ENHANCED OIL RECOVERY INC | | | | | | | | |
| 8229404 | 1-29-8218PD | 0112520059 | RECEIVED: | 04/27/82 | U S PIPE & FOUNDRY 10-6 #4A | BROOKWOOD COAL DEGASI | 4.6 | SOUTHERN NATURAL |
| 8229399 | 1-29-8214PD | 0112520031 | 107-CS | | U S PIPE & FOUNDRY 11-11 #9 | BROOKWOOD COAL DEGASI | 4.6 | SOUTHERN NATURAL |
| 8229402 | 1-29-8214PD | 0112520037 | 107-CS | | U S PIPE & FOUNDRY 11-12 #17 | BROOKWOOD COAL DEGASI | 4.6 | SOUTHERN NATURAL |
| 8229403 | 1-29-8214PD | 0112520041 | 107-CS | | U S PIPE & FOUNDRY 11-13 #18 | BROOKWOOD COAL DEGASI | 4.6 | SOUTHERN NATURAL |
| 8229401 | 1-29-8212PD | 0112520034 | 107-CS | | U S PIPE & FOUNDRY 11-14 #10 | BROOKWOOD COAL DEGASI | 4.6 | SOUTHERN NATURAL |
| 8229400 | 1-29-8212PD | 0112520033 | 107-CS | | U S PIPE & FOUNDRY 11-15 #8 | BROOKWOOD COAL DEGASI | 4.6 | SOUTHERN NATURAL |
| 8229406 | 1-29-8212PD | 0112520060 | 107-CS | | U S PIPE & FOUNDRY 11-7 #19 | BROOKWOOD COAL DEGASI | 4.6 | SOUTHERN NATURAL |
| -GETTY OIL COMPANY | | | | | | | | |
| 8229407 | 3-5-821PD | 0109720199 | RECEIVED: | 04/27/82 | CREOLA MINERALS 10-11 #3 | HATTER'S POND | 0.0 | UNITED GAS PIPELI |
| 8229412 | 4-16-821PD | 0109720201 | 107-DP | | CREOLA MINERALS 35-11 #3 | HATTER'S POND | 460.0 | UNITED GAS PIPELI |
| -GRACE PETROLEUM CORPORATION | | | | | | | | |
| 8229408 | 3-5-824PD | 0107520050 | RECEIVED: | 04/27/82 | DELANEY 11-6 | EAST DETROIT | 0.0 | NORTHWEST ALABAMA |
| 8229410 | 3-5-8216PD | 0105720265 | 102-4 | | LANNINGHAM 2-15 | STUDHORSE CREEK | 0.0 | CORONADO TRANSMIS |
| 8229411 | 3-5-8216PD | 0105720265 | 103 | | LANNINGHAM 2-15 | STUDHORSE CREEK (GILM | 0.0 | CORONADO TRANSMIS |
| 8229415 | 4-16-825PD | 0105720247 | 102-4 | | TUCKER 35-11 | NORTHEAST DAVIS CHAPE | 0.0 | TENNESSEE GAS PIP |
| 8229413 | 4-16-822PD | 0107520212 | 102-2 | | WHEELER-BOVETTE 25-7 | HELLS CREEK | 0.0 | TENNESSEE GAS PIP |
| -TERRA RESOURCES INC | | | | | | | | |
| 8229420 | 4-16-8212PD | 0105720262 | RECEIVED: | 04/27/82 | NEWTON #27-3 | MUSGROVE CREEK | 250.0 | WARRIOR DRILLING |
| 8229405 | 4-16-8213PD | 0105720207 | 102-4 | | CANNON 29-3 | MCCRACKEN MOUNTAIN | 235.0 | SOUTHERN NATURAL |
| 8229421 | 4-16-8213PD | 0105720272 | 102-2 | | FULLERTON 25-13 | MUSGROVE CREEK | 500.0 | WARRIOR DRILLING |
| CALIFORNIA DEPARTMENT OF CONSERVATION | | | | | | | | |
| -TENNECO OIL COMPANY | | | | | | | | |
| 8229381 | 82-4-0081 | 0402965277 | RECEIVED: | 04/26/82 | YOUNGME UNIT "A" 77X-3 | YOUNGME | 82.0 | ARCO OIL & GAS CO |
| MONTANA BOARD OF OIL & GAS CONSERVATION | | | | | | | | |
| -AMINOIL USA INC | | | | | | | | |
| 8229390 | 5-81-76-A | 2508321432 | RECEIVED: | 04/27/82 | WHITNEY #1 | RIDGELAWN | 75.2 | MONTANA DAKOTA UT |
| 8229393 | 5-81-76 | 2508321432 | 102-4 | | WHITNEY #1 | RIDGELAWN | 75.2 | MONTANA-DAKOTA UT |

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| JD NO | JA DKT | API NO | D SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROL | PURCHASER |
|--------------------------------------|--------|-------------|----------|--------------------|--------------------------------|-------------|------|-------------------|
| 8229302 | | 3411522443 | 103 | | ELEANOR MASSEY #7 | RINGGOLD | 15.0 | |
| -HOPEWELL OIL AND GAS DEVELOPMENT CO | | | 103 | RECEIVED: 04/26/82 | JA: OH | | | |
| 8229305 | | 3411924657 | 103 | 107-TF | FUSNER #2 | WASHINGTON | 2.5 | COLUMBIA GAS TRAN |
| 8229306 | | 3412724987 | 103 | 107-TF | M WHEELER #1 | HARRISON | 7.0 | COLUMBIA GAS TRAN |
| 8229304 | | 3412724595 | 103 | 107-TF | ZINK #1 | HARRISON | 11.0 | COLUMBIA GAS TRAN |
| -JERRY MOORE INC | | | | RECEIVED: 04/26/82 | JA: OH | | | |
| 8229319 | | 3407523338 | 107-TF | 107-TF | EMANUEL A NISLEY #1 | NEW BEDFORD | 4.0 | COLUMBIA GAS TRAN |
| 8229320 | | 3407523340 | 107-TF | 107-TF | NOAH N YODER #1-17 | CHARM | 6.0 | COLUMBIA GAS TRAN |
| 8229318 | | 3403124951 | 107-TF | 107-TF | RICHARD JOHNSON UNIT #1 | COSHOCTON | 3.0 | COLUMBIA GAS TRAN |
| -K S T OIL & GAS CO INC | | | | RECEIVED: 04/26/82 | JA: OH | | | |
| 8229307 | | 3415320917 | 103 | 107-TF | PAPA #1 | NORTHAMPTON | 0.0 | |
| -MENOIL | | | | RECEIVED: 04/26/82 | JA: OH | | | |
| 8229310 | | 3416922214 | 107-TF | 107-TF | ARLEENE JACKSON #1 | CANAAN | 5.0 | COLUMBIA GAS TRAN |
| 8229308 | | 3416922194 | 107-TF | 107-TF | DORIS MCILVAINE #1 | CANAAN | 5.0 | COLUMBIA GAS TRAN |
| 8229309 | | 3416922213 | 107-TF | 107-TF | FARMERS SPORTSMAN ASSOC INC #1 | CANAAN | 5.0 | COLUMBIA GAS TRAN |
| 8229311 | | 3416922297 | 107-TF | 107-TF | TERRENCE EWING #1 | CANAAN | 5.0 | COLUMBIA GAS TRAN |
| -KRAMER EXPLORATION CO | | | | RECEIVED: 04/26/82 | JA: OH | | | |
| 8229312 | | 3405320693 | 103 | 107-TF | KANAUGA GUN CLUB - JIVIDEN #1 | ADDISON | 12.0 | COLUMBIA GAS TRAN |
| -LAUDERMAN OIL & GAS DRILLING | | | | RECEIVED: 04/26/82 | JA: OH | | | |
| 8229313 | | 3416752331 | 103 | 107-TF | CLAUDE KESTERSON #1 | PALMER | 11.0 | COLUMBIA GAS TRAN |
| -LEADER EQUITIES INC | | | | RECEIVED: 04/26/82 | JA: OH | | | |
| 8229314 | | 3411926177 | 103 | 107-TF | KLEIN-BRADFORD #1 | MONROE | 13.0 | |
| -M B OPERATING CO INC | | | | RECEIVED: 04/26/82 | JA: OH | | | |
| 8229316A | | 3415123468 | 103 | 107-TF | FLINTKOTE CO UNIT #21 | MARLBORO | 22.0 | REPUBLIC STEEL CO |
| 8229316B | | 3415123468 | 103 | 107-TF | FLINTKOTE CO UNIT #21 | MARLBORO | 22.0 | REPUBLIC STEEL CO |
| 8229315 | | 3401921443 | 103 | 107-TF | FOLTZ #1 | BROWN | 14.6 | REPUBLIC STEEL CO |
| -O E D CO | | | | RECEIVED: 04/26/82 | JA: OH | | | |
| 8229321 | | 3407322249 | 103 | 107-TF | C L POSTON HEIRS #4 | WARD | 9.1 | COLUMBIA GAS TRAN |
| -OHIO NATURAL FUEL CO | | | | RECEIVED: 04/26/82 | JA: OH | | | |
| 8229322 | | 3408322784 | 103 | 107-TF | HARLETT #1 | UNION | 12.0 | OHIO CUMBERLAND G |
| 8229323 | | 3408322785 | 103 | 107-TF | HARLETT #2 | UNION | 12.0 | OHIO CUMBERLAND G |
| 8229324 | | 3408322788 | 103 | 107-TF | HARLETT #5 | UNION | 6.0 | OHIO CUMBERLAND G |
| 8229325 | | 3408322789 | 103 | 107-TF | HARLETT #6 | UNION | 12.0 | OHIO CUMBERLAND G |
| 8229326 | | 3408322790 | 103 | 107-TF | HARLETT #7 | UNION | 12.0 | OHIO CUMBERLAND G |
| 8229327 | | 3408322791 | 103 | 107-TF | HARLETT #8 | UNION | 12.0 | OHIO CUMBERLAND G |
| -PREMIER ENERGY CORP | | | | RECEIVED: 04/26/82 | JA: OH | | | |
| 8229328 | | 34075222929 | 107-TF | 107-TF | MOSE YODER #1 | BERLIN | 12.0 | COLUMBIA GAS TRAN |
| -ROVI RESOURCES CORP | | | | RECEIVED: 04/26/82 | JA: OH | | | |
| 8229337 | | 3411924729 | 108 | 107-TF | J & V MCINTIRE #2 | | 5.0 | COLUMBIA GAS TRAN |
| 8229338 | | 3411924731 | 108 | 107-TF | J & V MCINTIRE #3 | | 5.0 | COLUMBIA GAS TRAN |
| 8229339 | | 3411924731 | 108 | 107-TF | J & V MCINTIRE #4 | | 5.0 | COLUMBIA GAS TRAN |
| 8229330 | | 3411924373 | 108 | 107-TF | R LYONS #1 | | 5.0 | COLUMBIA GAS TRAN |
| 8229333 | | 3411924392 | 108 | 107-TF | R LYONS #2 | | 5.0 | COLUMBIA GAS TRAN |
| 8229331 | | 3411924374 | 108 | 107-TF | R LYONS #3 | | 5.0 | COLUMBIA GAS TRAN |
| 8229329 | | 3411924372 | 108 | 107-TF | R LYONS #4 | | 5.0 | COLUMBIA GAS TRAN |
| 8229332 | | 3411924391 | 108 | 107-TF | R LYONS #5 | | 5.0 | COLUMBIA GAS TRAN |
| 8229340 | | 3411924735 | 108 | 107-TF | M DINGEY #1 | | 5.0 | COLUMBIA GAS TRAN |
| 8229335 | | 3411924423 | 108 | 107-TF | WDDC #2 | | 5.0 | COLUMBIA GAS TRAN |
| 8229334 | | 3411924418 | 108 | 107-TF | WDDC #3 | | 5.0 | COLUMBIA GAS TRAN |
| 8229336 | | 3411924431 | 108 | 107-TF | WDDC #5 | | 5.0 | COLUMBIA GAS TRAN |
| -SANDHILL ENERGY INC (OH) | | | | RECEIVED: 04/26/82 | JA: OH | | | |
| 8229341 | | 3416726982 | 103 | 107-TF | FLOYD E EARLEY #4 | | 73.0 | COLUMBIA GAS TRAN |
| -SUNSET PETROLEUM INC | | | | RECEIVED: 04/26/82 | JA: OH | | | |

NEW MATAMOROS

| JD NC | JA DKT | API NO | D | SFC(1) | SEC(2) | WELL NAME | FIELD NAME | PROC | PURCHASER |
|---|--------|------------|--------|-----------|-------------------------------|--------------------|------------|-------------------|-------------------|
| 8229342 | | 3407523014 | 103 | 107-TF | ABE MILLER #1 | PRAIRIE | 10.0 | COLUMBIA GAS TRAN | |
| 8229343 | | 3407523015 | 103 | 107-TF | ELI C MILLER #1 | SALT CREEK | 10.0 | COLUMBIA GAS TRAN | |
| 8229344 | | 3407523017 | 103 | 107-TF | HENRY HERSBERGER #1 | PRAIRIE | 10.0 | COLUMBIA GAS TRAN | |
| 8229346 | | 3407523021 | 103 | 107-TF | JONAS A MILLER #1 | SALT CREEK | 10.0 | COLUMBIA GAS TRAN | |
| 8229345 | | 3407523018 | 103 | 107-TF | WILLIAM F MILLER #1 | PRAIRIE | 10.0 | COLUMBIA GAS TRAN | |
| -WHITMAN OIL & GAS CORP | | | | RECEIVED: | 04/26/82 | OLIVE | 10.0 | | |
| 8229347 | | 3410522043 | 103 | | D ADAMS #1 | | | | |
| ***** OKLAHOMA CORPORATION COMMISSION ***** | | | | | | | | | |
| ***** AN-SON CORPORATION ***** | | | | | | | | | |
| | | 3512920607 | 102-2 | RECEIVED: | 04/26/82 | DEMPSEY | 234.0 | | |
| 8229497 | | 16752 | 102-2 | | PERRYMAN #1-31 | | | | |
| -ANDOVER OIL COMPANY | | | | RECEIVED: | 04/26/82 | | | 300.0 | DELHI GAS PIPELIN |
| 8229361 | | 3503920242 | 103 | | LINDA MARIE #31-1 | | | 180.0 | DELHI GAS PIPELIN |
| 8229371 | | 3511722127 | 102-2 | | ROTHER #3-4 | | | 5.0 | LONE STAR GAS CO |
| -ARCO OIL AND GAS COMPANY | | | | RECEIVED: | 04/26/82 | DURANT EAST | | | |
| 8229363 | | 3513000005 | 108-ER | | ANDERSON-MAYHUE UNIT #1U & 1L | | | | |
| -ARKOMA PRODUCTION CO | | | | RECEIVED: | 04/26/82 | KINTA | | 150.0 | ARKANSAS LOUISIAN |
| 8229496 | | 3517920444 | 102-4 | | HOPE #1-C | KINTA | | 150.0 | ARKANSAS LOUISIAN |
| 8229495 | | 3507920444 | 102-4 | | HOPE #1-T | | | 500.0 | MICHIGAN WISCONSI |
| -BASS EXPLORATION CO | | | | RECEIVED: | 04/26/82 | N W FORT SUPPLY | | | |
| 8229504 | | 3505921048 | 103 | | DRISKELL #1 | CITRA | | 180.0 | ARKANSAS LOUISIAN |
| -CHARLES HILL JR | | | | RECEIVED: | 04/26/82 | SOONER TREND | | 36.5 | OKLAHOMA GAS & EL |
| 8229370 | | 3506321453 | 102-2 | | LAWSON #2 | BUTLER CREEK | | 125.0 | MOBILE OIL CO |
| -COLONA PETROLEUM INC | | | | RECEIVED: | 04/26/82 | LENAPAH | | 35.0 | OKAN GAS CO |
| 8229351 | | 3504722572 | 103 | | TURNER #1 | UNDESIGNATED ATOKA | | 275.0 | EL PASO NATURAL G |
| -DYCO PETROLEUM CORPORATION | | | | RECEIVED: | 04/26/82 | CANTON | | 0.0 | |
| 8229509 | | 3505120991 | 103 | | BASSETT #1-24 | CANTON | | 0.0 | |
| -ECC OIL CO | | | | RECEIVED: | 04/26/82 | JOINER CITY | | 1.0 | |
| 8229494 | | 3510523264 | 102-2 | | GLASS #2 NW/4 NE/4 14-28N-15E | SOONER TREND | | 282.9 | EXXON CO USA |
| -EL PASO NATURAL GAS COMPANY | | | | RECEIVED: | 04/26/82 | WEST ALLEN | | 354.0 | SUN GAS CO |
| 8229374 | | 3512921675 | 107-3P | | MILLINGTON SHIELDS #1 | S BALKO | | 0.0 | NORTHERN NATURAL |
| -ELF AQUITAINE INC | | | | RECEIVED: | 04/26/82 | TEAGARDEN | | 0.0 | PANHANDLE EASTERN |
| 8229490 | | 3511120985 | 103 | | MASONHALL #2 | SOONER TREND | | 175.0 | EASON OIL CO |
| 8229489 | | 3501121544 | 103 | | MASONHALL #3 | EAST SEILING | | 150.0 | MICHIGAN WISCONSI |
| -EXXON CORPORATION | | | | RECEIVED: | 04/26/82 | | | 0.0 | PHILLIPS PETROLEU |
| 8229364 | | 3501922144 | 103 | | STATE DIXON #2 | | | 0.0 | PHILLIPS PETROLEU |
| -F C D OIL CORP | | | | RECEIVED: | 04/26/82 | | | 0.0 | PHILLIPS PETROLEU |
| 8229352 | | 3507323203 | 103 | | HAYMAKER 1-9 | | | | |
| -FLINT & ASSOCIATES | | | | RECEIVED: | 04/26/82 | | | | |
| 8229507 | | 3512321098 | 103 | | MOBIL #6 | | | | |
| -FUNK EXPLORATION INC | | | | RECEIVED: | 04/26/82 | | | | |
| 8229368 | | 3500722007 | 102-4 | | DELK #1-6 | | | | |
| -GRACE PETROLEUM CORPORATION | | | | RECEIVED: | 04/26/82 | | | | |
| 8229348 | | 3515120172 | 108 | | KING 1-13 | | | | |
| -HARPER OIL COMPANY | | | | RECEIVED: | 04/26/82 | | | | |
| 8229355 | | 3508321810 | 103 | | ERGENBRIGHT #1 | | | | |
| -HELMERICH & PAYNE INC | | | | RECEIVED: | 04/26/82 | | | | |
| 8229498 | | 3504321404 | 102-2 | | WARD #4-4 | | | | |
| -HERMAN ROBERTS | | | | RECEIVED: | 04/26/82 | | | | |
| 8229357 | | 3511100000 | 103 | | ROBERTS #1 | | | | |
| 8229358 | | 3511100000 | 103 | | ROBERTS #2 | | | | |
| 8229359 | | 3511100000 | 103 | | ROBERTS #3 | | | | |

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| JD NO | JA DKT | API NO | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|-----------------------------------|--------|------------|-----------|----------|------------------------------------|------------|-------|---------------------|
| -KAISER-FRANCIS OIL COMPANY | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229501 | 2689 | 3505935234 | 108 | | LEWIS A #1 | | 19.0 | NORTHERN NATURAL |
| 8229356 | 13792 | 350721998 | 103 | | LONG #2 | | 250.0 | MICHIGAN WISCONSINI |
| -KIRBY EXPLORATION CO | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229375 | 18367 | 3501521247 | 107-DP | | MINDERMANN I-30 | | | PANHANDLE EASTERN |
| -KLINE & PITTENGER EXPLORATION | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229353 | 13798 | 3511921661 | 103 | | LAFON #1 | | 29.0 | AMINOIL USA INC |
| -M M RESOURCES INC | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229506 | 13677 | 3504722610 | 103 | | POSEY #7-1 | | 73.0 | CHAMPLIN PETROLEU |
| -MACKELLAR INC | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229492 | 13892 | 3510320854 | 103 | | COLE #3 | | 0.0 | ARCO OIL & GAS CO |
| 8229493 | 13893 | 3510320856 | 103 | | COLE #4 | | 0.0 | ARCO OIL & GAS CO |
| 8229491 | 13890 | 3510320858 | 103 | | STERNER #4 | | 0.0 | ARCO OIL & GAS CO |
| -MAHAN-ROUSEY INC. | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229360 | 13787 | 3502720474 | 103 | | TANAKA #1 | | 730.0 | SUN GAS CO |
| -MARLIN OIL CORPORATION | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| *8229502 | 12546 | 3500700000 | 108 | | STEVENS #1 | | 15.0 | EL PASO NATURAL G |
| -MARSHALL OIL CORP | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229367 | 17700 | 3503120650 | 107-DP | | GODLOVE #1 | | 0.0 | PANHANDLE EASTERN |
| -MAY PETROLEUM INC | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229372 | 16892 | 3510321653 | 102-4 | | VANN "C" #1 (103-73608) | | 365.0 | |
| -MIDWEST ENTERPRISES INC | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229503 | 13527 | 3508321451 | 103 | | RISING #2 | | 30.0 | CONOCO INC |
| -MONSANTO COMPANY | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229380 | 13812 | 3504722674 | 103 | | S E SALT FORK SKINNER SAND U #19-2 | | 400.0 | CRA INC |
| -OTEX ENERGY INC | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229499 | 16664 | 3501520877 | 102-2 | | REBA COWSER #1-31 | | 180.0 | MICHIGAN WISCONSINI |
| -PARKER BROTHERS OIL CO | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229365 | 16788 | 3513122763 | 102-2 | | PARKER #1A | | 5.0 | DIAMOND *S* GAS S |
| -PETRO-LEWIS CORPORATION | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229366 | 13543 | 3513722578 | 102-4 | | KIRK #4 | | 912.5 | ARKANSAS LOUISIAN |
| -PHILLIPS PETROLEUM COMPANY | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229362 | 13690 | 3515335206 | 108 | | ROBERTS C #1 | | 17.4 | CITIES SERVICE CO |
| -RAINEY OIL CO | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229487 | 13764 | 3503722800 | 103 | | HAMILTON #1 | | 94.0 | KERR-MCGEE CORP |
| 8229511 | 13763 | 3503723023 | 103 | | MCCAMMON #1 | | 198.0 | KERR-MCGEE CORP |
| -RESOURCES INVESTMENT CORPORATION | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229505 | 13674 | 3502720502 | 103 | | LAW #1 | | 138.7 | SUN GAS CO |
| -RICKS EXPLORATION CO | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229376 | 18084 | 3501520604 | 107-DP | | DUNN I-33 | | 148.0 | TENNESSEE GAS PIP |
| -SAHSON RESOURCES COMPANY | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229500 | 16666 | 3505121187 | 102-3 | | HUMPHREY HEIRS #2 | | 141.4 | ARKANSAS LOUISIAN |
| -SAXON OIL COMPANY | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229349 | 13616 | 3504721353 | 103 | | TOWELL NO 3 | | 182.5 | AMINOIL USA INC |
| -ST JOE PETROLEUM (US) CORP | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229510 | 7667 | 3510300000 | 103 | | RICE #2 | | 82.0 | CITIES SERVICE GA |
| -SUN OIL COMPANY (DELAWARE) | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229354 | 13795 | 3512321305 | 103 | | MOUNT GILCREASE UNIT #3-14 | | 365.0 | ARKANSAS LOUISIAN |
| -TENNECO OIL COMPANY | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229373 | 16899 | 3512120831 | 102-2 | | DAKIL #1-13 | | 150.0 | |
| -TEXACO INC | | | RECEIVED: | 04/26/82 | JA: OK | | | |
| 8229488 | 13786 | 3507323051 | 103 | | ROLLIN DREW #3 | | 21.9 | EASON OIL CO |
| -TEXOMA RESOURCES INC | | | RECEIVED: | 04/26/82 | JA: OK | | | |

| JD NO | JA DKT | API NO | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|-------------|-------------|--------|--------------------|-----------------------------|-----------------------|--------|-------------------|
| 8229379 | 13823 | 3511921599 | 103 | RECEIVED: 04/26/82 | FRANCIS #A# #1-4 | SOONER TREND | 100.0 | AMINOIL USA |
| -THE MIL-MC OIL CORP | | | | | | | | |
| 8229378 | 14579 | 3513721520 | 102-4 | RECEIVED: 04/27/82 | BEN SAYE ESTATE #1 (112-13) | COMANCHE | 15.0 | |
| 8229377 | 16728 | 3513700009 | 102-4 | RECEIVED: 04/27/82 | EDWARDS "B" #2 (154-6) | COMANCHE | 136.4 | |
| 8229369 | 16729 | 3513721527 | 102-4 | RECEIVED: 04/27/82 | EDWARDS "E" #2 (151-7) | COMANCHE | 254.5 | |
| 8229350 | 13567 | 355320712 | 103 | RECEIVED: 04/26/82 | RAPP #1 | WAKITA | 7.8 | EL GRANDE PIPELIN |
| -UNION TEXAS PETROLEUM | | | | | | | | |
| 8229508 | 13720 | 3509322314 | 103 | RECEIVED: 04/27/82 | JOHN HESS #2 | HODGE AREA 1-SE NW SE | 109.5 | PANHANDLE EASTERN |
| ** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER, CO | | | | | | | | |
| -CHANDLER & ASSOCIATES INC | | | | | | | | |
| 8229396 | CD0087-82PB | 051C08081 | 108-PB | RECEIVED: 04/23/82 | FORK UNIT 12-11 | MANCOS B | 0.0 | NORTHWEST P L COR |
| -RESOURCES INVESTMENT CORPORATION | | | | | | | | |
| 8229395 | KN 64-0 | 1505320531 | 103 | RECEIVED: 04/27/82 | KANOPOLIS FEDERAL #1 | S E KANOPOLIS | 150.0 | |
| ** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, LOS ANGELES, CA | | | | | | | | |
| -UNION OIL COMPANY OF CALIF | | | | | | | | |
| 8229398 | OCS-P 1-82 | 0431120472 | 102-5 | RECEIVED: 04/27/82 | SANTA CLARA UNIT S-1 | CALIFORNIA OFFSHORE | 41.0 | PACIFIC LIGHTING |
| 8229397 | OCS-P 2-82 | 0431120481 | 102-5 | RECEIVED: 04/27/82 | SANTA CLARA UNIT S-2 | CALIFORNIA OFFSHORE | 41.0 | PACIFIC LIGHTING |
| ** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE, LA | | | | | | | | |
| -ARCO OIL AND GAS COMPANY | | | | | | | | |
| 8229473 | G1-2491 | 1772140127 | 102-5 | RECEIVED: 04/28/82 | J A: LA 3 | SOUTH PASS BLOCK 61 F | 70.0 | SOUTHERN NATURAL |
| 8229428 | G2-2633 | 1770500374 | 102-1 | RECEIVED: 04/28/82 | OCS G-1612 C-29A | VERMILLION | 1400.0 | TENNESSEE GAS PIP |
| -CHEVRON U S A INC | | | | | | | | |
| 8229459 | G1-2370 | 1770000368 | 102-5 | RECEIVED: 04/28/82 | J A: LA 3 | SOUTH PASS BLOCK 61 F | 36.0 | SOUTHERN NATURAL |
| 8229422 | G1-2224 | 1772240055 | 102-5 | RECEIVED: 04/28/82 | OCS-G-1971 #9 | WEST CAMERON | 1440.0 | NATURAL GAS PIPEL |
| -CMG PRODUCING COMPANY | | | | | | | | |
| 8229458 | G1-2371 | 1771240261 | 102-5 | RECEIVED: 04/28/82 | OCS-G-2184 A-9 | SOUTH PASS | 1278.0 | TENNESSEE GAS PIP |
| 8229447 | G1-2404 | 1771240261 | 102-5 | RECEIVED: 04/28/82 | B-5S1 | SHIP SHOAL | 650.0 | CONSOLIDATED GAS |
| 8229477 | | 1771240264 | 102-5 | RECEIVED: 04/28/82 | B-5S2 | SHIP SHOAL | 1400.0 | CONSOLIDATED GAS |
| 8229483 | | 1771240264 | 102-5 | RECEIVED: 04/28/82 | B-6S1 | SHIP SHOAL | 800.0 | CONSOLIDATED GAS |
| 8229482 | | 1771240267 | 102-5 | RECEIVED: 04/28/82 | B-6S2 | SHIP SHOAL | 800.0 | CONSOLIDATED GAS |
| -DIAMOND SHAMROCK CORPORATION | | | | | | | | |
| 8229442 | G1-2438 | 1770500419 | 102-1 | RECEIVED: 04/28/82 | B-9S1 | VERMILION | 575.0 | TRANSCONTINENTAL |
| -EXXON CORPORATION | | | | | | | | |
| 8229438 | G1-2456 | 177104092A | 102-5 | RECEIVED: 04/28/82 | J A: LA 3 | EUGENE ISLAND | 100.0 | COLUMBIA GAS TRAN |
| 8229439 | G1-2424 | 1771040920 | 102-5 | RECEIVED: 04/28/82 | OCS-G 2111 #C-1 | EUGENE ISLAND | 300.0 | COLUMBIA GAS TRAN |
| -KERR-MCGEE CORPORATION | | | | | | | | |
| 8229429 | G2-2605 | 1771040941 | 102-5 | RECEIVED: 04/28/82 | OCS-G 2111 #C-2 | EUGENE ISLAND | 200.0 | COLUMBIA GAS TRAN |
| 8229446 | G1-2333 | 17711403589 | 107-DP | RECEIVED: 04/28/82 | OCS-G 2111 #C-5 | SHIP SHOAL | 913.0 | TRANSCONTINENTAL |
| -MARATHON OIL COMPANY | | | | | | | | |
| 8229479 | G2-2567 | 1772440165 | 102-5 | RECEIVED: 04/28/82 | OCS 0347 #3 | SHIP SHOAL | 0.0 | TRANSCONTINENTAL |
| 8229485 | G2-2568 | 1772440157 | 102-5 | RECEIVED: 04/28/82 | OCS 0828 #K-2 | MAIN PASS | 73.0 | SOUTHERN NATURAL |
| 8229478 | G2-2569 | 1772440137 | 102-5 | RECEIVED: 04/28/82 | J A: LA 3 | MAIN PASS | 365.0 | SOUTHERN NATURAL |
| -MESA PETROLEUM CO | | | | | | | | |
| 8229474 | G1-2500 | 1770640335 | 102-5 | RECEIVED: 04/28/82 | J A: LA 3 | VERMILION | 5000.0 | MICHIGAN WISCONSI |
| 8229476 | G1-2502 | 1770640453 | 102-5 | RECEIVED: 04/28/82 | VERMILION BLK 397 A-1 | VERMILION | 5000.0 | MICHIGAN WISCONSI |

| JD NO | JA DKT | API NO | D SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---------|---------|-------------|----------|--------|------------------------------|----------------------|--------|-------------------|
| 8229443 | 61-2311 | 1770640341 | 102-5 | | VERMILION BLK 397 A-2 | VERMILION | 2520.0 | MICHIGAN WISCONS |
| 8229446 | 61-2312 | 1770640341 | 102-5 | | VERMILION BLK 397 A-2D | VERMILION | 2520.0 | MICHIGAN WISCONS |
| 8229454 | 61-2313 | 1770640373 | 102-5 | | VERMILION BLK 397 A-4 | VERMILION | 2520.0 | MICHIGAN WISCONS |
| 8229475 | 61-2501 | 1770640384 | 102-5 | | VERMILION BLK 397 A-5 | VERMILION | 5000.0 | MICHIGAN WISCONS |
| 8229424 | 61-2479 | 1770640435 | 102-5 | | VERMILION BLK 397 A-9 | VERMILION | 2520.0 | MICHIGAN WISCONS |
| 8229453 | 61-2314 | 1770640406 | 102-5 | | VERMILION BLK 397 A-6 | VERMILION | 2520.0 | MICHIGAN WISCONS |
| 8229462 | 61-2392 | 1771340023 | 102-5 | | RECEIVED: 04/28/82 JA: LA 3 | SOUTH PELTO | 130.0 | TRANSCONTINENTAL |
| 8229436 | 61-2465 | 1771340078 | 102-5 | | SOUTH PELTO 9 #2 A | SOUTH PELTO | 912.5 | TRANSCONTINENTAL |
| 8229450 | 61-2346 | 1770940453 | 102-5 | | RECEIVED: 04/28/82 JA: LA 3 | EUGENE ISLAND BLK 47 | 1020.0 | SOUTHERN NATURAL |
| 8229426 | 61-2471 | 1771140575 | 102-5 | | RECEIVED: 04/28/82 JA: LA 3 | SHIP SHOAL | 200.0 | TRANSCONTINENTAL |
| 8229425 | 61-2472 | 1771140575 | 102-5 | | OCs-064 #48A | SHIP SHOAL | 255.0 | TRANSCONTINENTAL |
| 8229463 | 61-2391 | 1771140579 | 102-5 | | OCs-064 #48C | SHIP SHOAL | 1400.0 | TRANSCONTINENTAL |
| 8229457 | 61-2412 | 1771140552 | 102-5 | | OCs-065 #28 | SHIP SHOAL 113 FIELD | 73.0 | TRANSCONTINENTAL |
| 8229445 | 61-2420 | 1762720133 | 102-5 | | RECEIVED: 04/28/82 JA: LA 3 | SHIP SHOAL 222 FIELD | 100.0 | MICHIGAN WISCONS |
| 8229437 | 61-2249 | 1770920002 | 102-5 | | OCs-6 1193 C-12A | SOUTH MARSH ISLAND | 150.0 | MICHIGAN WISCONS |
| 8229434 | 62-2578 | 1770440489 | 102-1 | | OCs-6 1220 15A | EUGENE ISLAND | 5475.0 | SOUTHERN NATURAL |
| 8229433 | 62-2579 | 1770440528 | 102-1 | | OCs-6 4101 JA-3 | EAST CAMERON | 5500.0 | SOUTHERN NATURAL |
| 8229452 | 61-2339 | 1770900591 | 102-5 | | OCs-6 4101 JA-6 | EUGENE ISLAND | 36.0 | TRANSCONTINENTAL |
| 8229464 | 62-2608 | 1770940490 | 107-DP | | OCs-0478 B-8E | WEST CAMERON | 5000.0 | MICHIGAN WISCONS |
| 8229481 | 62-2549 | 1771140486 | 102-1 | | RECEIVED: 04/28/82 JA: LA 3 | SHIP SHOAL | 1095.0 | TENNESSEE GAS PIP |
| 8229448 | 61-2401 | 17709403296 | 102-5 | | RECEIVED: 04/28/82 JA: LA 3 | SHIP SHOAL | 0.0 | TENNESSEE GAS PIP |
| 8229456 | 61-2413 | 1770340359 | 102-5 | | RECEIVED: 04/28/82 JA: LA 3 | EAST CAMERON | 8375.0 | SEA ROBIN PIPELIN |
| 8229455 | 61-2414 | 1770340360 | 102-5 | | E C BLK 229 OCS-6-0966 #A-12 | EAST CAMERON | 0.0 | SEA ROBIN PIPELIN |
| 8229448 | 61-2401 | 17709403296 | 102-5 | | EUGENE ISLAND BLK 72 #1 | EUGENE ISLAND | 128.0 | NATURAL GAS PIPEL |
| 8229484 | 61-2348 | 1771540362 | 102-5 | | RECEIVED: 04/28/82 JA: LA 3 | SOUTH TIMBALIER | 2000.0 | |
| 8229427 | 62-2641 | 1770540498 | 102-1 | | OCs-G2626 #2 | VERMILION | 730.0 | TRANSCONTINENTAL |
| 8229441 | 61-2430 | 1770840430 | 102-5 | | RECEIVED: 04/28/82 JA: LA 3 | SOUTH MARSH ISLAND | 730.0 | TRANSCONTINENTAL |
| 8229430 | 61-2429 | 1770540468 | 102-5 | | A-11 | VERMILION | 37.0 | TENNESSEE GAS PIP |
| 8229451 | 61-2342 | 1770540497 | 102-5 | | RECEIVED: 04/28/82 JA: TX 3 | VERMILION | 365.0 | |
| 8229461 | 61-2396 | 4270940650 | 102-5 | | RECEIVED: 04/28/82 JA: TX 3 | HIGH ISLAND | 7200.0 | CONSOLIDATED GAS |
| 8229486 | 61-2481 | 4270440034 | 102-1 | | RECEIVED: 04/28/82 JA: TX 3 | BRAZOS | 0.0 | TRANSCONTINENTAL |
| 8229423 | 61-2483 | 4270440034 | 102-1 | | BA-437 #1-L | BRAZOS | 0.0 | TRANSCONTINENTAL |
| 8229466 | 61-2483 | 4270440037 | 102-1 | | BRAZOS AREA 437 #2-L | BRAZOS | 0.0 | TRANSCONTINENTAL |
| 8229465 | 61-2482 | 4270440037 | 102-1 | | BRAZOS AREA 437 #4-L | BRAZOS | 0.0 | TRANSCONTINENTAL |
| 8229471 | 61-2488 | 4270440045 | 102-1 | | BRAZOS AREA 437 #5-L | BRAZOS | 0.0 | TRANSCONTINENTAL |
| 8229472 | 61-2488 | 4270440045 | 102-1 | | BRAZOS AREA 437 #6-L | BRAZOS | 0.0 | TRANSCONTINENTAL |
| 8229469 | 61-2486 | 4270440068 | 102-1 | | BRAZOS AREA 437 #5-U | BRAZOS | 0.0 | TRANSCONTINENTAL |
| 8229470 | 61-2487 | 4270440068 | 102-1 | | BRAZOS AREA 437 #6-L | BRAZOS | 0.0 | TRANSCONTINENTAL |
| 8229467 | 61-2484 | 4270440174 | 102-1 | | BRAZOS AREA 437 #6-U | BRAZOS | 0.0 | TRANSCONTINENTAL |
| 8229468 | 61-2485 | 4270440174 | 102-1 | | RECEIVED: 04/28/82 JA: TX 3 | HIGH ISLAND | 1500.0 | TRANSCONTINENTAL |
| 8229449 | 61-2400 | 4270840099 | 102-5 | | OCs-G 3237 #A-7 | | | |

VOLUME 650

PAGE 008

| | | |
|-------------|--------|-------------------|
| FIELD NAME | PROL | PURCHASER |
| ----- | ---- | ----- |
| HIGH ISLAND | 4000.0 | COLUMBIA GAS TRAN |
| BRAZOS | 8500.0 | TRANSCONTINENTAL |
| BRAZOS | 8000.0 | COLUMBIA GAS TRAN |

| | | | | | |
|---------------|---------|------------|-----------|----------|-----------------------|
| JD NO | JA DKT | API NO | D SEC(1) | SEC(2) | WELL NAME |
| ----- | ----- | ----- | ----- | ----- | ----- |
| 8229444 | 61-2422 | 4271140512 | 102-5 | | OCS-G 3313 #A-8 |
| -SHELL OIL CO | | | RECEIVED: | 04/28/82 | JA: TX 3 |
| 8229432 | 62-2590 | 4270440051 | 102-1 | | OCS-G 3472 A-2 |
| 8229431 | 62-2591 | 4270440059 | 102-1 | | OCS-G 3472 A-3 (S/T1) |

OTHER PURCHASERS VOLUME NO :650

8229450 UNITED GAS P L CO
 8229502 MICHIGAN WISCONSIN PL CO

BILLING CODE 6717-01-G

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission by June 4, 1982.

Categories within each NPA section are indicated by the following codes:

- Section 102-1: New OCS lease
- 102-2: New well (2.5 mile rule)
- 102-3: New well (1000 ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease
- Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal seams
- 107-DV: Devonian shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

- Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13915 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP-82-37-000]

Natural Gas Policy Act; New Mexico Department of Energy and Minerals; Request for Withdrawal of Final Eligibility Determination

May 17, 1982.

In the matter of New Mexico Department of Energy and Minerals, Oil Conservation Division, NGPA Section 108 Determination, Mexico "D" Well No. 1, Cooper Jal-Jalmat Pool, Lea County, New Mexico (FERC JD 79-12361).

On March 15, 1982, Getty Oil Company P.O. Box 1404, Houston, Texas 77001 (Getty) filed a copy of a request to withdraw an application for a Natural Gas Policy Act of 1978 (NGPA) final section 108 eligibility determination for the Mexico "D" Well No. 1, located in the Cooper Jal-Jalmat Pool, Lea County,

New Mexico. Getty states that the Oil Conservation Division of the New Mexico Department of Energy and Minerals (New Mexico) issued a favorable determination on July 9, 1979, in Docket No. 79-12361 NM. Getty further states that notice of the determination was received by the Federal Energy Regulatory Commission (Commission) on July 12, 1979, and, after lapse of the 45-day review period, became final on August 26, 1979.

Getty states that a review of its records for this well indicates that the well had completions in more than the formation upon which the determination was based and that, accordingly, production data used to qualify the well under section 108 was not total daily well production as required by § 271.804(a) of the Commission's regulations.

Finally, Getty states that a refund payment will be made to El Paso Natural Gas Company, the purchaser of this natural gas, and that the refund report required by § 273.202 of the Commission's regulations will be filed with the Commission.

With respect to the question of refunds arising out of Getty's request for withdrawal of final well category determination, notice is hereby given that whether refunds will be required is a matter subject to the review and final decision of the Commission.

Any person desiring to be heard or to protest this request should file, by June 21, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a protest or a petition to intervene in accordance with § 1.8 or 1.10 of the Commission's Rules of Practice and Procedure. All protests filed with the Commission will be considered, but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13846 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2912-001]

Alabama Electric Coop., Inc., Application for License (Over 5 MW)

May 18, 1982.

Take notice that Alabama Electric Cooperative, Inc. (Applicant) filed on July 6, 1981, an application for license (pursuant to the Federal Power Act, 16

U.S.C. 791(a)-825(r)) for construction and operation of a water power project to be known as Demopolis Hydroelectric Development Project No. 2912. The project would be located on the Tombigbee River near Demopolis, in Sumter County, Alabama.

Correspondence with the Applicant should be directed to Mr. Charles R. Lowman, General Manager, Alabama Electric Cooperative, Inc., Andalusia, Alabama 36420.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers Demopolis Lock and Dam and consists of: (1) A proposed intake channel approximately 160 feet wide and 500 feet long; (2) a proposed tailrace approximately 300 feet wide and 1,700 feet long; (3) a proposed powerhouse containing two turbine generators with a combined rated capacity of 37.5 MW; (4) a proposed 115 kV transmission line interconnected with an existing transmission line and resulting in a total transmission length of approximately 4.5 miles; and (5) appurtenant facilities. The project will be operated as a run-of-river plant. The expected average annual energy production is 153 GWh.

Purpose of Project—Power at the proposed project would be used by the Alabama Electric Cooperative for member cooperatives, municipalities, and consumers.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 30, 1982, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c), or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE

COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13820 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EL82-10]

Alaska Power Authority; Declaration of Intention

May 18, 1982.

Take notice that on March 12, 1982, the Alaska Power Authority filed a declaration of intention to construct and operate four hydroelectric facilities in Alaska. The declaration of intention was filed under section 23(b) of the Federal Power Act, 16 U.S.C. 817(b), and requests that the Federal Energy Regulatory Commission commence an investigation to determine if the FERC has jurisdiction over the projects. Correspondence with the Alaska Power Authority should be directed to: Eric Yould, Executive Director, Alaska Power Authority, 334 West 5th Avenue, Anchorage, Alaska 99501.

The four projects are as follows:

Commission and open to public inspection.

ALNG proposes herein to render a ten-year service involving the receipt, storage, and redelivery, in liquid and gaseous phase, of LNG for certain distribution companies at its facilities located in Providence, Rhode Island. Algonquin Gas proposes to deliver regasified LNG through its existing pipeline to the participating resale customers.

It is stated that 348,000 barrels of ALNG's tank's capacity would continue to be used by Providence Gas Company (Providence Gas) pursuant to a long-term arrangement to supply its local distribution system. After allowance for tank heel, ALNG states it has 248,000 barrels of capacity available for service to other companies. Service utilizing undedicated capacity has been rendered to certain customers over the past eight years on a short-term basis. The last such short-term service was authorized for three years and terminates on May 31, 1982, it is explained.

Applicants explain that as the current limited-term service was approaching its conclusion certain customers requested a new, long-term service to facilitate longer range planning and stability. In this regard, it is asserted that New England suffered a severe cold period in the 1980-81 winter which compounded by an interruption of foreign LNG supplies contemplated to be delivered by Distrigas of Massachusetts Corporation caused a serious shortage of nonpipeline peak shaving gas in New England and emphasized the need for long-term service to all of the sales customers served by Algonquin Gas as well as to previous short-term purchasers of LNG storage service. It is asserted that seven companies accepted the offered service and apportioned the available 248,000 barrels of capacity as follows:

| | Barrels of storage capacity | |
|--|-----------------------------------|-----------------------------------|
| | June 1, 1982 through May 31, 1987 | June 1, 1987 through May 31, 1991 |
| NEW SERVICE | | |
| Bay State Gas Company..... | 28,700 | 33,700 |
| Boston Gas Company..... | 127,000 | 127,000 |
| Bristol and Warren Gas Company, et al. Cape Cod Gas Company..... | 10,500 | 12,000 |
| The Connecticut Gas Company..... | 66,800 | 52,000 |
| City of Norwich, Connecticut Valley Gas Company..... | 15,000 | 15,000 |
| Total..... | 248,000 | 248,000 |
| CONTINUING SERVICE | | |
| Providence Gas Company..... | 348,000 | 348,000 |
| Tank Heel..... | 4,000 | 4,000 |
| Total..... | 600,000 | 600,000 |

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Docket Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission,

825 North Capitol Street, NE., Room 208 RB, at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.
[FR Doc. 82-13821 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-310-000]

Algonquin LNG, Inc., and Algonquin Gas Transmission Co.; Application

May 14, 1982.

Take notice that on April 30, 1982, Algonquin LNG, Inc. (ALNG) and Algonquin Gas Transmission Company (Algonquin Gas), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP82-310-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a new liquefied natural gas (LNG) storage service and related transportation-exchange service for a limited ten-year term ending May 31, 1992, all as more fully set forth in the application which is on file with the

It is asserted that ALNG has executed letter agreements with each of the customers which desire new LNG storage service from its storage facility and Algonquin Gas has executed letter agreements for customers desiring delivery of regasified LNG. As represented in the letter agreements authorization is for limited-term service for ten years expiring May 31, 1992.

Applicants assert that this LNG storage service would allow the seven customers to store LNG during off peak seasonal periods when it is not needed to meet high-priority requirements and would provide an added protection to help assure maintenance of service to such high-priority users.

It is stated that deliveries by a customer to ALNG's storage facility would be made by truck or alternate means mutually agreed to. It is submitted that redelivery of stored LNG to customers may be either in liquid form by truck or in gaseous phase by pipeline. It is asserted that redeliveries of LNG may also be accomplished in gaseous phase. ALNG would gasify the LNG and physically deliver it to Providence Gas; Algonquin Gas, in turn, would deliver thermally equivalent quantities to the customer under proposed Rate Schedule T-LG, it is explained. The customer would assume the burden of making all necessary arrangements with Providence Gas should it desire redelivery of LNG in gaseous phase, it is stated.

Applicants have tendered for filing proposed tariff sheets which are necessary to effectuate the services for which authorization herein is requested. Applicants request that the Commission in its order approving the proposed services also except and make effective Applicant's related tariff sheets filed herein. Applicants request that the Commission waive, to the extent necessary, Part 154 of the Commission's Regulations to permit the filing and acceptance of the proposed tariff sheets.

ALNG would charge the customers of long-term LNG storage service an initial rate of \$1.0417 per barrel per month. This initial rate is also included in ALNG's FERC Gas Tariff, Original Volume No. 1. Applicants request Commission acceptance of such rate for filing without condition, so as to provide an initial revenue assurance to ALNG for the rendition of the LNG storage service. Applicants state that such

unconditioned authorization of the initial rate is a condition precedent to ALNG's acceptance of a certificate.

Algonquin Gas has also tendered a new Rate Schedule T-LG for its proposed service at a rate of 14.7 cents per million Btu transported which rate, Algonquin Gas states, is identical to the established, effective rate for similar services.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13822 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF82-121-000]

Alton Packaging Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

May 13, 1982.

On April 21, 1982 Alton Packaging Corporation of 1915 Wigmore Street, Jacksonville, Florida 32201, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is located in Jacksonville, Florida. Pulverized coal, wood bark and kraft black liquor are used as the primary energy sources to fuel a double extraction, condensing turbine generator and boilers. The electric power production capacity of the facility is 44,200 kilowatts. Installation of the facility began in March 1981. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13868 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-488-000]

American Electric Power Service Corp.; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliates, Ohio Power Company and

Kentucky Power Company, tendered for filing on April 30, 1982 the following:

1. Agreement between City of Vanceburg, Kentucky and Kentucky Power Company.
2. Agreement among City of Hamilton, Ohio, American Municipal Power-Ohio, Inc., and Ohio Power.
3. Facilities Agreement among Kentucky Power Company, Ohio Power Company and City of Vanceburg.
4. Notice of Cancellation or Termination of Kentucky Power Company's FERC Rate Schedule No. 12.

The filings principally provide for Backup Power to Vanceburg and Transmission Service to Hamilton and for termination of full requirements service by Kentucky Power Company to Vanceburg.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13836 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-501-000]

Central Hudson Gas & Electric Corp.; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that Central Hudson Gas & Electric Corporation (Central Hudson) on May 6, 1982, tendered for filing as a rate schedule an executed agreement dated April 28, 1982 between Central Hudson and Philadelphia Electric Company. The proposed rate schedule provides for the sale of firm capability and associated energy by Central Hudson.

Central Hudson states that the rate schedule provides for a capability charge of \$100 per megawatt per day of capability made available by Central Hudson and an energy charge equal to Central Hudson's incremental steam electric generating costs, including operation and maintenance costs and the incremental cost of transmission losses.

Central Hudson requests waiver of the notice requirements of § 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective on May 3, 1982 in accordance with the terms thereof.

Copies of the filing by Central Hudson were served upon Philadelphia Electric Company and the Public Service Commission of New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13837 Filed 5-20-82 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6146-000]

Gary C. Chiara; Application for Preliminary Permit

May 19, 1982.

Take notice that Gary C. Chiara (Applicant) filed on March 30, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6146 to be known as the Tower House Ditch Water Power Project located on Crystal Creek near City of Redding in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gary C. Chiara, 2760 Henderson Road, Redding, California 96002.

Project Description—The proposed project would consist of: (1) A 6-foot high diversion structure; (2) a one-mile long diversion ditch; (3) a 10-inch diameter, 500-foot long penstock; (4) a powerhouse with total installed capacity of 50 kW; (5) a 75-foot long, 12-kV transmission line interconnecting with an existing PG&E transmission line. The Applicant estimates that total annual output would be 300 MWh.

Purposed Scope of Studies Under Permit—A preliminary permit, if issued,

does not authorize construction. The Applicant is seeking a preliminary permit for 24 months during which he would conduct engineering, environmental and economic studies and prepare an FERC Minor license application. These studies are estimated to cost \$4,400 by the Applicant.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 29, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 29, 1982, and should specify the type of application forthcoming. Any applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 27, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING

APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13849 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-43-001]

Cities Services Gas Co.; Proposed Changes in FERC Gas Tariff

May 14, 1982.

Take notice that Cities Service Gas Company (Cities Service) on May 12, 1982, tendered for filing Substitute Twelfth Revised Sheet No. 6 to its FERC Gas Tariff, Original Volume No. 1. Cities Service states that this filing is being made in compliance with Ordering Paragraphs (B) and (D) of the Commission's order issued April 21, 1982, in this docket and Cities Service's rates are reduced 9.37¢ per Mcf thereby.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. TA82-2-43 and RP81-78.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before May 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13864 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-88-000]

Columbia Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

May 12, 1982.

Take notice that on May 7, 1982, Columbia Gas Transmission Corporation (Columbia) tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective as follows:

January 1, 1982

Twenty-Second Revised Sheet No. 64

March 1, 1982

Twenty-Third Revised Sheet No. 64

Columbia states that the sole difference in the two revised tariff sheets is that Twenty-Second Revised Sheet No. 64 reflects the Base Average Rates of Purchased Gas Cost which became effective on September 1, 1981, and Twenty-Third Revised Sheet No. 64 reflects the Base Average Rates of Purchased Gas Cost which became effective on March 1, 1982.

Columbia states that the aforesaid tariff sheets reflect a change in the Purchased Gas Adjustment (PGA) clause set forth in section 20.3(b) of the General Terms and Conditions of Columbia's tariff. The change reflected in the tariff sheets is designed to permit Columbia to value certain of its pipeline production, presently valued on a cost of service basis, at the applicable ceiling prices under the Natural Gas Policy Act of 1978 (NGPA). Columbia further states that the filing is being made as a result of the United States Court of Appeals for the Former Fifth Circuit's December 23, 1981 decision in *Mid-Louisiana Gas Company v. FERC*, Nos. 80-3804 and 80-4010.

Columbia states that it presently values its "old gas" pipeline production on a cost of service basis and such cost is reflected in its base sales rates. Columbia states that said pipeline production cost of service component of Columbia's base sales rates is 1.82¢ per dth.

Columbia proposes to implement the change from cost of service to NGPA pricing for its old gas production as of January 1, 1982 by effectively reducing its base sales rates for the period

January 1, 1982 through August 31, 1982 by crediting to its Account 191, by a separate monthly entry, an amount determined by multiplying the aforesaid 1.82¢ by the quantity of gas sold during such period. In addition, the company proposes to debit its Account 191, by a separate monthly entry, by an amount determined by applying the appropriate NGPA price levels to its old gas production for this interim period. Columbia states that the net of the above entries to Account 191 for the period January 1, 1982 through June, 1982 shall be reflected in its PGA surcharge to become effective September 1, 1982. The impact of the entries for July and August, 1982 will be reflected in the surcharge to become effective March 1, 1982.

Columbia further states that in its September 1, 1982 PGA filing it shall reduce its base sales rates by the aforesaid 1.82¢ per dth. In addition, Columbia shall increase its base sales rates to appropriately reflect the valuing of its old gas production at the March 1, 1982 Commodity Base Average Rate of Purchased Gas Cost.

Columbia states that its filing is not intended as a waiver of any rights it may have to make a subsequent filing or filings to collect NGPA prices for its pipeline production retroactive to December 1, 1978.

Lastly, Columbia requests the Commission to grant the necessary waivers to permit its filing to become effective as proposed, stating that such is required to permit the timely implementation of the Court's December 23, 1981 decision in *Mid-Louisiana*.

Copies of the filing were served by the company upon each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of Columbia's filing

are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13869 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-301-000]

Connecticut Light & Power Co.; Order Accepting for Filing and Suspending Revised Rates, Denying Motions for Rejection, Summary Disposition, and Waiver of Notice, Granting Interventions, and Establishing Hearing and Price Squeeze Procedures

Issued: May 14, 1982.

On March 16, 1982, Connecticut Light & Power Company (CL&P) completed¹ the filing of a wholesale rate increase applicable to four partial requirements customers.² Based on a calendar 1982 test year, the proposed rates would increase jurisdictional revenues by approximately \$6,200,000 (24.3%). CL&P requests an effective date of April 10, 1982.

Notice of CL&P's filing was issued on February 16, 1982, with responses due on or before March 2, 1982. Untimely protests in opposition to CL&P's proposed increase were received from Mr. George Soltesz, Mr. and Mrs. William Robbins, and Mrs. Robert Gillis and family, each of whom requests that the Commission reject the filing as excessive.

Timely petitions to intervene were filed by Bozrah Light & Power Company (Bozrah) and by the Connecticut Municipal Electric and Gas Association (CMEGA), acting on behalf of the Town of Wallingford and the Second and Third Taxing Districts of Norwalk, Connecticut. Bozrah requests that CL&P's filing be suspended for five months. In support of its request, Bozrah alleges that the requested return on equity is excessive, and that CL&P's cost of service inclusion of investment in cancelled nuclear generating units is improper.

CMEGA requests that the filing be rejected in its entirety, or in the alternative, be suspended for five months. CMEGA contends that CL&P's has failed to provide the requisite cost support data under the Commission's regulations; CL&P's stratified rate design and 100% demand ratchet are

unsupported, inconsistent with prior Commission decisions, and anticompetitive; the rates are excessive and unduly discriminatory; and the proposed rates create a price squeeze. In the event that CL&P's filing is not rejected, CMEGA requests that the Commission summarily deny the company's amortization of investment in its cancelled Montague Nuclear Plant. Construction of the project was suspended in 1978 and cancelled in 1980, and CL&P's proposes to amortize its \$14.5 million investment (of which \$576,000 would be allocated to the wholesale customers' cost of service) over a three year period. CMEGA contends that amortization is improper because CL&P's customers never had and never will receive any benefit from the project. Further, CMEGA claims that recovery by CL&P of expenses incurred in 1978 would be imprudent and inconsistent with the concept of a forward looking test year. In addition, CMEGA requests that the company's proposed amortization over three years of \$348,000 for expenses incurred as a result of abnormal outages occurring between December, 1980, and April, 1981, at CL&P's Millstone Nuclear Unit No. 1, be summarily rejected on the ground that they occurred prior to the 1982 test year.

On March 18, 1982, CL&P filed an answer to CMEGA's petition to intervene. While not opposing intervention by the three municipalities represented by CMEGA, the company does oppose participation by CMEGA itself on the ground that it is not a legal entity entitled to intervene under the Commission's Rules of Practice and Procedure. CL&P further disputes the allegations raised in CMEGA's petition and requests that the various motions be rejected. The company renews its request for an effective date of April 10, 1982; CL&P, thus, requests waiver of the notice requirements to the extent necessary. In the event that its filing is suspended, the company requests that the suspension period be limited to one day.

On March 22, 1982, CMEGA filed an amendment to its pleading with respect to certain calculations presented. In addition, CMEGA has moved to strike an appendix to CL&P's answer, asserting that the factual allegations raised are inaccurate and improper unless offered as testimony given under oath at an evidentiary hearing.

Discussion

Initially, we find that participation by Bozrah and CMEGA is in the public

interest and we shall therefore grant their petitions to intervene.³

We find that CL&P's submittal substantially complies with the Commission's filing regulations;⁴ further, we note that the stratified rate design and demand ratchet, of which CMEGA complains, were approved by the Commission in *Connecticut Light & Power Co.*, Opinion No. 114, 14 FERC ¶61,139 (Feb. 19, 1981), and Opinion No. 114-A, 15 FERC ¶61,056 (Apr. 20, 1981). Thus, the concerns currently expressed by CMEGA do not constitute a sufficient basis on which to summarily reject CL&P's filing.

In view of the issues raised by the petitioners and our preliminary review, we find that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We shall therefore accept CL&P's rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, (February 26, 1982), we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed rates may be unjust and unreasonable but may not produce substantially excessive revenues, as defined in *West Texas*. In the instant proceeding, our examination suggests that the proposed increase may not yield substantially excessive revenues. We do not find, however, that CL&P has presented good cause to waive the notice requirements. Accordingly, we shall suspend CL&P's filing for one day from sixty days after the completion of its filing, to become effective on May 17, 1982, subject to refund.⁵

¹ Under section 1.1(f)(1) of the Commission's Rules of Practice and Procedure, "persons" include incorporated and unincorporated associations. (See 18 CFR 1.8(b)). Any "person" may petition to intervene. We are not persuaded that CL&P has demonstrated any basis for concluding that CMEGA lacks the requisite capacity to represent its members. Accordingly, CL&P's request that intervention be limited to CMEGA's individual members will be denied.

² See *Municipal Light Boards of Reading and Wakefield, Massachusetts v. FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

³ CMEGA contends that a five month suspension is warranted in order to afford its members sufficient time to reflect CL&P's increase in their wholesale rates at the retail level. According to CMEGA, Connecticut law requires 30 days prior notice of retail rate changes and precludes the change from becoming effective thereafter until the first day of the month. The purpose of this Commission's suspension authority, however, is not to give affected customers notice. To the extent that the statute provides for notice to customers, it does so in section 205(d) of the Federal Power Act, which provides that no change in rates shall become effective, unless waiver is granted, except upon 60 days notice. In the instant docket, we note that approximately three months has passed since the company originally tendered its filing.

¹ CL&P originally tendered its filing on February 8, 1982. By letter dated March 4, 1982, the company was advised that its filing was deficient; the deficiency was cured by the submittal of additional materials on March 16, 1982.

² See Attachment A for a rate schedule designations and affected customers.

With respect to the issues for which CMEGA seeks summary disposition, we note that the Commission, in appropriate circumstances, has previously permitted the amortization of cancelled project and abnormal outage expenses incurred prior to the test year. *E.g., Connecticut Light and Power Co., Opinion No. 103, 13 FERC ¶61,155 (Nov. 21, 1980); New England Power Co., Opinion No. 49 (July 19, 1979).* CL&P therefore is not precluded from seeking amortization of such expenses on the basis of adequate record evidence.

Because the issues present questions of law and fact most appropriately resolved on the basis of an evidentiary hearing, the motions for summary disposition will be denied. In accordance with the Commission's policy established in *Arkansas Power and Light Company, Docket No. ER79-339 (August 6, 1979)*, we shall phase the price squeeze issue raised by CMEGA.

Finally, CMEGA, as noted above, has moved to strike portions of CL&P's answer which bear on CMEGA's claim that the proposed rates are discriminatory. In particular, CMEGA alleges that the company refused to offer its members an arrangement offered to others of its wholesale customers. CL&P denies the discrimination claims and has included, in its answer, a letter in support of its position. This issue is, however, more properly the subject of evidentiary proceedings. Because we do not decide the discrimination issue in this order on the basis of the pleadings, we shall deny CMEGA's motion to strike.

The Commission orders:

(A) CMEGA's motions to reject CL&P's filing, to summarily dispose of certain issues, or to strike portions of CL&P's answer are hereby denied.

(B) CL&P's motion for waiver of the notice requirements is hereby denied.

(C) CL&P's proposed rates are hereby accepted for filing and suspended for one day from sixty days after the completion of filing, to become effective on May 17, 1982, subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of CL&P's rates.

(E) The petitions to intervene filed by Bozrah and CMEGA are hereby granted

subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *provided, however*, that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further*, that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(F) The Commission staff shall serve top sheets in this proceeding on or before May 26, 1982.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) The Commission hereby orders the initiation of price squeeze proceedings and further orders that this docket be phased so that the price squeeze proceedings begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding administrative law judge may order a departure from this schedule for good cause shown. The price squeeze claim shall be governed by § 2.17 of the Commission's regulations as it may be modified prior to the commencement of the price squeeze phase of the instant docket.

(I) The Secretary shall promptly publish this order in the *Federal Register*.

By the Commission.
Kenneth F. Plumb,
Secretary.

THE CONNECTICUT LIGHT AND POWER COMPANY, DOCKET NO. ER82-301-000

[Rate Schedule Designations]

Dated: Undated

| Designation | Supersedes |
|--|--------------------------|
| FPC Electric Tariff 1st Revised Volume No. 1 | |
| 3rd Revised Sheet No. 1..... | 2nd Revised Sheet No. 1. |
| 2nd Revised Sheet No. 2..... | 1st Sheet No. 2. |
| 3rd Revised Sheet No. 3..... | 2nd Revised Sheet No. 3. |
| 3rd Revised Sheet No. 4..... | 2nd Revised Sheet No. 4. |
| 2nd Revised Sheet No. 5..... | 1st Revised Sheet No. 5. |
| 3rd Revised Sheet No. 6..... | 2nd Revised Sheet No. 6. |

THE CONNECTICUT LIGHT AND POWER COMPANY, DOCKET NO. ER82-301-000—Continued

[Rate Schedule Designations]

Dated: Undated

| Designation | Supersedes |
|--------------------------------|---------------------------|
| 2nd Revised Sheet No. 7..... | 1st Sheet No. 7. |
| 4th Revised Sheet No. 8..... | 3rd Revised Sheet No. 8. |
| 3rd Revised Sheet No. 9..... | 2nd Sheet No. 9. |
| 5th Revised Sheet No. 10..... | 4th Revised Sheet No. 10. |
| 5th Revised Sheet No. 11..... | 4th Revised Sheet No. 11. |
| 3rd Revised Sheet No. 11A..... | 2nd Sheet No. 11A. |
| 3rd Revised Sheet No. 12..... | 2nd Revised Sheet No. 12. |
| 3rd Revised Sheet No. 13..... | 2nd Revised Sheet No. 13. |
| 2nd Revised Sheet No. 14..... | 1st Sheet No. 14. |
| 2nd Revised Sheet No. 15..... | 1st Sheet No. 15. |
| 2nd Revised Sheet No. 16..... | 1st Sheet No. 16. |
| 3rd Revised Sheet No. 17..... | 2nd Revised Sheet No. 17. |

THE CONNECTICUT LIGHT AND POWER COMPANY

| Designation | Supersedes |
|-------------------------------|---------------------------|
| 2nd Revised Sheet No. 18..... | 1st Sheet No. 18. |
| 3rd Revised Sheet No. 19..... | 2nd Sheet No. 19. |
| 3rd Revised Sheet No. 20..... | 2nd Sheet No. 20. |
| 2nd Revised Sheet No. 21..... | 1st Sheet No. 21. |
| 4th Revised Sheet No. 22..... | 3rd Revised Sheet No. 22. |
| 4th Revised Sheet No. 23..... | 3rd Revised Sheet No. 23. |
| 2nd Revised Sheet No. 24..... | 1st Sheet No. 24. |
| 2nd Revised Sheet No. 25..... | 1st Sheet No. 25. |
| 2nd Revised Sheet No. 26..... | 1st Sheet No. 26. |
| 3rd Revised Sheet No. 27..... | 2nd Revised Sheet No. 27. |

Service Agreements dated February 1, 1982, under FPC Electric Tariff, First Revised Volume No. 1 (Supersedes Service Agreements dated July 25, 1978, under FPC Electric Tariff, First Revised Volume No. 1).

[FR Doc. 82-13909 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-490-000]

Connecticut Light & Power Co.; Filing
May 17, 1982.

The filing Company submits the following:

Take notice that on April 30, 1982, the Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an exchange agreement (the Agreement) between CL&P and the Hartford Electric Light Company (HELCO) (together, the NU Companies); and Fitchburg Gas and Electric Light Company (Fitchburg). The Agreement, dated as of April 6, 1981, provides for the NU Companies to exchange capacity from Middletown Unit No. 4 and Montville Unit No. 6, both oil-fired, intermediate type electric generating units, for gas turbine capacity from the Fitchburg Unit No. 7, a gas turbine type electric generating unit.

The Agreement provides that the parties will determine daily and/or weekly during the term of the Agreement whether it is economically

advantageous that an exchange shall take place.

Fitchburg will pay an hourly capacity charge to the NU Companies in an amount equal to the kilowatts of capacity exchanged times \$0.003. Fitchburg will purchase energy from Middletown Unit No. 4 and/or Montville Unit No. 6 at the average cost of providing such energy. Fitchburg will pay a station service energy charge to the NU Companies for Middletown Unit No. 4 and/or Montville Unit No. 6 at the average cost of providing such energy from the NU System when such unit(s) are not operating during an exchange. The NU Companies will purchase energy from the Fitchburg Unit at the average cost of providing such energy.

CL&P requests the Commission waive its notice requirements to allow for an effective date of April 6, 1981.

CL&P states that copies of this filing have been mailed to the NU Companies and to Fitchburg.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13910 Filed 5-20-82; 8:45 am]
BILLING CODE 6710-01-M

[Docket No. ER82-487-000]

Connecticut Light & Power Co.; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that on April 30, 1982, Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an exchange agreement (the Agreement) between CL&P, the Hartford Electric Light Company (HELCO), Western Massachusetts Electric Company (WMECO) (together, the NU Companies); and Fitchburg Gas and Electric Light Company (Fitchburg). The Agreement, dated as of January 1, 1981, provides for the NU Companies to

exchange capacity and related pondage from the Northfield Mountain Pumped Storage Hydro Electric Project (Project) for gas turbine capacity from the Fitchburg Unit No. 7, a gas turbine type electric generating unit.

The Agreement provides that the parties will determine weekly during the term of the Agreement whether or not it is economically advantageous that an exchange shall take place during any particular week.

Fitchburg will pay a weekly capacity charge to the NU Companies in an amount equal to kilowatts of capacity exchanged during each week times \$0.211008. Fitchburg will also pay a station service energy charge to the NU Companies for Fitchburg's share of the station service energy consumed by the Project during each week in which an exchange takes place at a rate representing the average cost of providing such energy from the system of the NU Companies during the prior calendar month. The NU Companies would purchase energy from the Fitchburg Unit at the average cost of providing such energy.

CL&P requests that the Commission waive its standard notice period and allow the Agreement to become effective on January 5, 1981.

CL&P states that copies of the Agreement have been mailed to the NU Companies and to Fitchburg.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13850 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3368-001]

Continental Hydro Corp.; Surrender of Preliminary Permit

May 18, 1982.

Take notice that Continental Hydro Corporation (CH) permittee for the

proposed Lavon Project No. 3368 has requested that its preliminary permit be terminated. The preliminary permit was issued on April 13, 1981, and would have expired on October 1, 1983. The proposed project would have utilized the U.S. Army Corps of Engineers Lavon Dam near Lavon, Texas. CH indicates that the project would not appear to be an economic source of energy.

CH's request is dated April 15, 1982, and the surrender of its permit for Project No. 3368 is effective as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13823 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6252-000]

East Kentucky Power Cooperative, Inc.; Application for Preliminary Permit

May 18, 1982.

Take notice that East Kentucky Power Cooperative, Inc. (Applicant) filed on April 19, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6252 to be known as the Grayson Project located on the Little Sandy River near Grayson, Carter County, Kentucky. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Richard H. Breckenkamp, East Kentucky Power Cooperative, Inc., P.O. Box 707, Winchester, Kentucky 40391. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Grayson flood control dam and would consist of: (1) A new 1700-foot long concrete lined power tunnel with intake located near the west dam abutment; (2) a powerhouse containing two turbine-generator units with a total rated capacity of 2.0 MW; (3) a 100-foot long, 89-KV transmission line; and (4) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 5,100,000 Kwh. Energy developed at the project would be utilized by the Applicant for distribution to its customers.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36

months. The work to be performed under this preliminary permit would consist of gathering necessary data, completing surveys and environmental studies, obtaining necessary Federal, State and local permits, in consultation with the Corps of Engineers and preparing necessary documentation for the Commission's licensing requirements. Applicant estimates that the cost of works to be performed under the permit would not exceed \$20,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 30, 1982, the competing application itself (see: 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 29, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be

filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13824 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP82-279-000 and CP82-279-001]

El Paso Natural Gas Co., Dorchester Gas Producing Co.; Application

May 14, 1982.

Take notice that on April 8, 1982, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-279-000 an application, as amended, on April 21, 1982, by El Paso and Dorchester Gas Producing Company (Dorchester), P.O. Box 31049, Dallas, Texas 75231, pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of natural gas on an exchange basis to Dorchester in Reagan County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that it and Dorchester are parties to a purchase agreement dated September 24, 1954, as amended, which provides for, *inter alia*, the sale by Dorchester and the purchase by El Paso at the outlet of Dorchester's Big Lake Texon Gasoline Extraction Plant located in Reagan County, Texas, of all volumes of surplus residue gas attributable to Dorchester's production and purchases in the vicinity of said plant. Pursuant to this agreement, Dorchester presently sells to El Paso approximately 500 Mcf of surplus residue gas per day, it is stated. Such quantities of surplus residue gas are utilized by El Paso as a part of its general system supply, it is submitted. El Paso explains that prior to the sale of surplus residue gas volumes to El Paso Dorchester in the daily operation of the Texon Plant receives raw casinghead gas from the production areas situated

in close proximity to the plant, processes such raw gas and extracts natural gas liquids therefrom and concurrently uses available quantities of residue gas. Dorchester thereafter sells all surplus residue gas volumes at the outlet of the Texon Plant to El Paso in accordance with the terms and conditions of the purchase agreement.

El Paso asserts that in June 1981 Dorchester advised El Paso that it plans to cease all of its natural gas liquids processing operations at the Texon Plant inasmuch as it is no longer profitable to maintain said operations. Instead of processing raw gas and extracting natural gas liquids at the Texon Plant, Dorchester proposed to (1) only compress and treat (purify) raw gas that is currently being processed at the Texon Plant, (2) transport such gas approximately 10 miles to the Union Texas Petroleum Corporation (Union Texas) Benedum Plant in Upton County, Texas, for processing and liquids extraction, and (3) deliver all surplus residue gas under the purchase agreement to El Paso at El Paso's existing purchase meter station at the outlet of the Benedum Plant, is stated. As a part of the proposed revised operations at the Texon Plant, El Paso asserts that Dorchester advised El Paso that it would require a supply of pipeline quality gas in order to continue the operation of the remaining Texon Plant camp and compressors and for other Texon Plant operations.

In order to accommodate Dorchester's proposed cessation of its natural gas liquids processing operations at the Texon Plant and its need for pipeline quality gas at said plant, El Paso states that it and Dorchester executed an amendatory agreement dated December 1, 1981, which amends the purchase agreement and evidences the understanding and agreement between the parties respecting Dorchester's proposal. The amendatory agreement, it is stated, provides, *inter alia*, that the residue gas reserved for use by Dorchester under the Texon purchase agreement would be delivered via exchange to Dorchester through an existing tap and meter on El Paso's transmission line adjacent to Dorchester's Texon Plant.

In accordance with the provisions of the amendatory agreement and in order that Dorchester may have a constant and reliable supply of pipeline quality natural gas available for its aforementioned uses at the Texon Plant and, further, to insure the continuity of the surplus residue gas supply to be sold at the outlet of the Benedum Plant by Dorchester to El Paso, El Paso states

that it and Dorchester have entered into a gas exchange agreement dated March 19, 1982. Pursuant to the terms and conditions of the exchange agreement, El Paso states that it has agreed to deliver to Dorchester at an existing tap and meter station located immediately downstream of the Texon Plant in Reagan County, Texas, such quantity of pipeline quality gas as Dorchester may need, from time to time, not to exceed 350 Mcf per day. It is asserted that in exchange therefore, Dorchester has agreed to cause the concurrent delivery to El Paso at El Paso's existing purchase meter station located at the outlet of Union Texas' Benedum Plant in Upton County, Texas, of volumes of surplus residue gas equivalent on a thermal basis to the total volumes of pipeline quality natural gas delivered by El Paso to Dorchester at the Texon Plant. El Paso and Dorchester have agreed to perform their respective exchange obligations under the exchange agreement without monetary compensation from the other party, it is explained.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13825 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-35-000]

El Paso Natural Gas Co.; Application of El Paso Natural Gas Co. for Waiver of Certain Regulations Under the Natural Gas Policy Act of 1978

May 14, 1982.

Take notice that on April 26, 1982, El Paso Natural Gas Company filed an application for waiver of §§ 271.804, 271.805 and 274.206 of the Commission's regulations relating to filing of notices of disqualification and applications for requalification for certain stripper wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301 *et seq.*).

El Paso states that the purpose of its request is to obtain the necessary waivers to permit it to retain stripper well status for a total of 102 wells for which notices of disqualification were not filed when production exceeded 60 Mcf per production day, and when eligible, were not requalified as stripper wells. El Paso claims that its failure to file notices of disqualification for the subject wells occurred during the period in which the applications for determinations of section 108 eligibility for these wells were still pending before the jurisdictional agencies. El Paso, in failing to submit the notices of disqualification, allegedly relied on a statement in the preamble to the Interim Rules (issued December 1, 1978, 43 FR 56482) which stated that § 271.805, which implements section 108(b)(2) of the NGPA, disqualifies wells which, subsequent to the jurisdictional agency determination, produce quantities of gas in excess of the amounts permitted by the law and this subpart.

El Paso maintains that the preamble supports its interpretation that a notice of disqualification need not be filed until after the jurisdictional agency acted on the application.

In order No. 44 (Docket No. RM79-73, issued August 22, 1979) the Commission clarified that the requirement of filing a notice of disqualification applied to both wells for which applications had been filed and wells which had already received jurisdictional agency determinations. El Paso claims that it

revised its procedures after Order No. 44 was issued and began filing notices of disqualification for the latest 90-day production periods for applications pending before the jurisdictional agency. For the wells for which El Paso did not file notices of disqualification, El Paso proposes to classify the wells on a monthly basis as stripper or non-stripper wells based on whether production was above or below the 60 Mcf per production day level for the preceding 90-day production period.

El Paso request that, with respect to any refunds due it, the Commission notify to producer/sellers and direct such refunds. El Paso states that with respect to its own leasehold production, it will make appropriate and necessary adjustments to recoup any overpayments of royalties and production taxes made during any period when a well did not qualify as a stripper well.

El Paso further states that the affected jurisdictional agencies, operators and purchasers either concur in the waiver or have no objection thereto.

Any person desiring to be heard or to protest this request for waiver should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedures. All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13825 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-33-006]

El Paso Natural Gas Co.; Revised Purchased Gas Cost Adjustment Filing

May 13, 1982.

Take notice that on April 30, 1982, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act and in compliance with ordering paragraph (C) of the Commission's "Order Accepting for Filing and Suspending Proposed Tariff Sheets

Subject to Refund and Conditions and Setting Matter for Hearing," issued March 31, 1982 at Docket No. TA82-2-33-000 (PGA82-2) (IPR82-2) (AP82-2) and (TT82-2), the following revised tariff sheets to become effective April 1, 1982:

Original Volume No. 1

First Substitute Thirtieth Revised Sheet No. 3-B

Third Revised Volume No. 2

First Substitute Twenty-first Revised Sheet No. 1-D

Original Volume No. 2A

First Substitute Twenty-second Revised Sheet No. 1-C

Such sheets are submitted in substitution for their respective counterparts, referred to in said order as the "alternative" or "lower proposed tariff sheets," tendered as a part of El Paso's notice of change in rates filed March 1, 1982, at Docket No. TA82-2-33-000. The revised tariff sheets, like their counterparts, exclude the impact of the implementation of the decision of the United States Court of Appeals for the Fifth Circuit in *Mid-Louisiana Gas Co. v. FERC*, No. 80-3804, (December 23, 1981) hereinafter referred to as *Mid-Louisiana*.¹ The Commission's order issued March 31, 1982, among other things, conditionally accepted, effective April 1, 1982, subject to refund, the lower proposed revised tariff sheets tendered as a part of El Paso's March 1, 1982 notice of change in rates.

Ordering paragraphs (C)(1) through (C)(4) of the Commission's March 31, 1982 order, directed El Paso to file within thirty (30) days of the issuance of said order, revised tariff sheets to become effective April 1, 1982, reflecting:

(1) a correct Account 191 surcharge based on the appropriate subaccounts as required by the Commission's Regulations;

(2) a correct interperiod tax allocation for computing carrying charges on refunds included in Account 191;

(3) actual rates paid, as of April 1, 1982, to producers of deregulated gas, if those rates are lower than the estimates included in this filing; and

(4) actual rates in effect, as of April 1, 1982, for purchases from intrastate gas pipelines and the correct rate for purchases from Valero Interstate Transmission Company.

Accordingly, El Paso states that the tendered substitute lower proposed revised tariff sheets incorporating the

forementioned adjustments result in an overall revised net adjustment of 52.01¢ per Mcf above El Paso's currently effective rates, as compared with an increase of 50.13¢ per Mcf initially proposed in El Paso's March 1, 1982 tariff tender.²

Ordering paragraph (D) of the Commission's order issued March 31, 1982 stated "El Paso shall adjust its books to reflect the correct interperiod tax allocation for its LFUT refund." El Paso states that in compliance with ordering paragraph (D) it has corrected the interperiod tax allocation for its Louisiana First-Use Tax refunds, and such corrected amount is not sufficient to cause a reduction in the surcharge rate.

Ordering paragraph (E) of the Commission's order issued March 31, 1982 further conditioned the acceptance of El Paso's rates by requiring El Paso to supply additional information to demonstrate:

(1) that purchases of deregulated gas from El Paso Exploration Company satisfy the Commission's "affiliated entities" tested; and,

(2) that El Paso has properly calculated its Btu adjustments and retroactive Btu adjustments pursuant to Commission Order Nos. 93 and 93-A.

In compliance with ordering paragraph (E), El Paso has included in the instant tender the requested data (i) demonstrating that the pricing of company-owned production included in the subject PGAC adjustment does not exceed the amount paid in comparable first sales between persons not affiliated with El Paso as required by section 601(b)(1)(E) of the Natural Gas Policy Act of 1978; and (ii) to justify the calculation of its Btu adjustments pursuant to Commission Order Nos. 93 and 93-A.

El Paso respectfully requests that the lower proposed revised tariff sheets reflecting the adjusted rates be substituted for their respective counterparts tendered by El Paso on March 1, 1982, at Docket No. TA82-2-33-000 and be made effective on April 1, 1982 as directed by the Commission. Further, El Paso respectfully requests that the higher proposed revised tariff sheets reflecting the implementation of *Mid-Louisiana* be made effective on September 1, 1982, or an earlier date, as may be directed by the Commission, in lieu of their respective counterpart sheets.

El Paso further states that copies of the instant tender have been served

²The higher proposed revised tariff sheets reflect a net adjustment of 64.27¢ per Mcf, above El Paso's currently effective rate, as compared with an increase of 62.39¢ per Mcf initially proposed in El Paso's March 1, 1982 tariff tender.

upon all parties of record in Docket No. TA82-2-23-000, and otherwise, upon all interstate pipelines system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before May 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13870 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6213-000]

Energenics Systems, Inc.; Application for Preliminary Permit

May 17, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on April 15, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6213 to be known as the Calamus Dam Hydroelectric Project located on Calamus River near Burwell, in Loup County, Nebraska. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Thomas H. Clarke, Jr., President, Energenics Systems, Inc., 1717 K Street, N.W., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize the existing U.S. Bureau of Reclamation Calamus River Dam and would consist of: (1) an existing conduit from the intake to a proposed 250-foot-long, 5.65-foot in diameter penstock; (2) a proposed powerhouse with generating units having an estimated installed capacity of 1,440 kW and producing an average annual energy output of 11.64 GWh; (3) a proposed 7-mile-long transmission line to connect to an existing Nebraska Public Power System line; and, (4)

¹El Paso also tendered Second Substitute Thirtieth Revised Sheet No. 3-B, Second Substitute Twenty-first Revised Sheet No. 1-D and Second Substitute Twenty-second Revised Sheet No. 1-C, referred to by the Commission as "higher proposed revised tariff sheets," which include the impact of *Mid-Louisiana*.

appurtenant facilities. The proposed market for the power is Nebraska Public Power System.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, state, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be \$30,000.00.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 23, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 26, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all

capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13851 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6100-000]

Energenics Systems, Inc., Application for Preliminary permit

May 19, 1982.

Take notice that Energenics systems, Inc. (Applicant) filed on March 18, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6100 to be known as the Blackwater Dam Project located in Blackwater River in Merrimack County, New Hampshire. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., Energenics Systems, Inc., 1717 K Street, N.W., Suite 706, Washington D.C. 20006.

Project Description—The proposed project would utilize the existing Corps of Engineers' Blackwater Dam and would consist of: (1) A new powerhouse containing a single generating unit with a rated capacity of 460 kW; (2) existing 230-KV transmission lines owned by the New England Power Company; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1.86 GWh. The most likely market for the energy derived at the proposed project would be New England Power Company, Concord Electric Company, and Public Service Company of New Hampshire.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued,

does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 30, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 29, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 29, 1982.

Filing and Service of Responsible Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION",

"PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13852 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6279-000]

F & T Services Corp.; Application for Preliminary Permit

May 17, 1982.

Take notice that F & T Services Corporation (Applicant) filed on May 3, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6279 to be known as the Lake D'Arbonne Project located on Bayou D'Arbonne Lake in the town of Farmerville, Union Parish, Louisiana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: J. B. Lancaster, Jr., Forte and Tablada, Inc., P.O. Box 64844, Baton Rouge, Louisiana 70896.

Project Description—The proposed project would consist of: (1) An existing 799-foot long, 51-foot high concrete spillway; (2) a 61-foot high, 1,000-foot long earthen dam; (3) a gate section with four 3-foot by 4-foot gates; (4) a 15,000-acre reservoir with a normal pool elevation of 80.0 feet M.S.L.; (5) a new powerhouse at the southern end of the spillway containing turbine-generators with a total rated capacity of 5 MW; (6) a transmission line; and (7) appurtenant facilities. Energy produced at the project would be sold to a local utility. The project would produce up to 20,000,000 kWh annually. The project dam is owned by the State of Louisiana Department of Public Works.

Proposed Scope of Studies Under Permit—A preliminary permit if issued, does not authorize construction. The

work proposed under this preliminary permit would include economic evaluation, engineering plans, and an environmental assessment. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the work to be performed under this preliminary permit would cost \$15,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 23, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 26, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be

filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13827 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-83-000]

Gas Transport, Inc.; Proposed Changes in FERC Gas Tariff

May 13, 1982.

Take notice that on April 30, 1982, Gas Transport, Inc. ("Transport") tendered for filing proposed changes in its FERC Gas Tariff to be effective on June 1, 1982, consisting of the following tariff sheets.

First Revised Sheet No. 4

Superseding Original Sheet No. 4

First Revised Sheet No. 10

Superseding Original Sheet No. 10

Transport proposes to increase the level of the rate charged for natural gas transportation service pursuant to Rate Schedule T-1 contained in Original Volume No. 1 of its FERC Gas Tariff based on twelve (12) months of actual experience ended December 31, 1981.

The application states that the principal reason for the change in rate proposed herein is that the rate has remained the same since May 1, 1949, while costs have continued to escalate. Consequently, Rate Schedule T-1 is essentially an anachronism and incongruous with present economic conditions. Transport represents, however, that the Natural Gas Policy Act of 1978 has stimulated new exploration in Transport's area of operations and that it has recently received several inquiries from potential customers concerning such transportation service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of

Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13871 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5904-000]

Grisdale Hill Co.; Application for Preliminary Permit

May 18, 1982.

Take notice that Grisdale Hill Company (Applicant) filed on January 20, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5904 to be known as the Briggs Creek Hydroelectric Project located on Briggs Creek, within Siskiyou National Forest in Josephine County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Leo S. Fisher, Suite 423, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20036.

Project Description—The proposed project would consist of: (1) A 7-foot high concrete diversion structure at elevation 1,360 feet; (2) either a 7,500-foot long low pressure conduit following the creek, a surge tank and a penstock dropping through 410 feet of head, or a 3,500-foot long pressure tunnel running directly toward the powerhouse and a penstock dropping through 420 feet of head; (3) a powerhouse containing a turbine generator with 5.2 MW capacity and 25.1 GWh annual energy production; and (4) a transmission line 15 miles long. The potential market for project-generated power includes the Pacific Power & Light Company and Bonneville Power Administration.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the

project. The estimated cost of permit activities is \$125,000.

Competing Applications—This application was filed as a competing application to City of Grants Pass, Oregon's application for Project No. 5499 filed on October 14, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the

Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13853 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-491-000]

Hartford Electric Light Co.; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that on April 30, 1982, the Hartford Electric Light Company (HELCO) tendered for filing as an initial rate schedule an agreement (the Agreement) between HELCO, the Connecticut Light and Power Company (CL&P), Western Massachusetts Electric Company (WMECO), and together with HELCO and CL&P, the NU Companies) and Central Maine Power Company (CMP). The Agreement, dated as of July 23, 1981, provides for the NU Companies to sell to CMP excess power from the Northeast Utilities system (system power) that may be available on a daily basis (a "transaction"). HELCO states that the timing of transactions cannot be accurately estimated but that the NU Companies would offer to sell such system power to CMP only when it was economical to do so. CMP would only accept such offer if it was economical to do so.

CMP will pay an energy reservation charge to the NU Companies for each transaction in an amount equal to the kilowatthours of system power reserved for and supplied to CMP by the NU Companies during a transaction times \$0.003 per kilowatt hour. CMP will pay any energy charge to the NU Companies for each transaction in an amount equal to the kilowatthours provided by the NU Companies during such transaction times and energy charge rate. The energy charge rate is based on the heat rate, and the replacement fuel price of the generating unit(s) which the NU Companies determine to be available to provide power at the time of a transaction.

HELCO requests an effective date of July 23, 1981, and therefore requests waiver of the Commission's notice requirements.

According to HELCO copies of the filing have been mailed to CL&P, WMECO and CMP.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8

and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb, -

Secretary.

[FR Doc. 82-13911 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-498-000]

Hartford Electric Light Co.; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that on May 3, 1982, the Hartford Electric Light Company (HELCO) tendered for filing as an initial rate schedule an agreement (the Exchange Agreement) between HELCO, the Connecticut Light and Power Company (CL&P), Western Massachusetts Electric Company (WMECO), and together with HELCO and CL&P, the NU Companies and Public Service Company of New Hampshire (PSNH). The Exchange Agreement, dated as of September 11, 1981, provides for an exchange of excess capacity and associated energy from the Northeast Utilities system ("system power") for an equal amount of capacity from various PSNH Exchange Units, when such units are not operating. HELCO states that the timing of the exchanges cannot be accurately estimated but that the NU Companies and PSNH would enter into an exchange only when it was economical to do so.

PSNH will pay a capacity charge to the NU Companies for each exchange in an amount equal to the capacity exchange amount (expressed in kilowatts) for such exchange times \$0.003 per kilowatt. PSNH will pay an energy charge to the NU Companies for each exchange in an amount equal to kilowatt hours provided by the NU Companies during such exchange times an energy charge rate. The energy charge rate is based on the heat rate, and the New England Power Exchange's replacement fuel price of the generating unit(s) which the NU Companies determine to be available to provide system power at the time of an exchange.

HELCO requests an effective date of September 11, and therefore requests waiver of the Commission's notice requirements.

According to HELCO copies of the agreement have been mailed to CL&P, WMECO and by PSNH.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13954 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6181-000]

H.M.M., Inc.; Application for Preliminary Permit

May 18, 1982.

Take notice that H.M.M., Inc. (Applicant) filed on April 7, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)) for Project No. 6181 to be known as the H.M.M. Hydropower Project located on Rush Creek and an unnamed tributary to Rush Creek near Cambridge in Washington County, Idaho. The proposed project would affect the U.S. lands within the Payette National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ms. Helen Chenoweth, Consulting Associates, Inc., P.O. Box 893, Boise, Idaho 83701.

Project Description—The proposed project would consist of: (1) A 4-foot high diversion structure; (2) a 24-inch diameter, 6,000-foot long penstock; (3) a powerhouse with total installed capacity of 1,751-kW; and (4) a 34.5-kV, 8-mile long transmission line interconnecting with an existing 34.5-kV transmission line of Idaho Power Company. The Applicant estimates that the average annual energy output would be 6.196 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant is seeking issuance of a preliminary permit for a duration of 24 months during which it would conduct engineering, environmental and economic studies and prepare an FERC license application. The Applicant estimates the cost of conducting these studies to be \$40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 28, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file and application for license or exemption must be submitted to the Commission on or before July 28, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 27, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 28, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS".

"NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13828 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP82-82-000]

Honeoye Storage Corp.; Proposed Changes in FERC Gas Tariff

May 13, 1982.

Take notice that Honeoye Storage Corporation (Honeoye), on April 30, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. The proposed changes would increase jurisdictional storage service revenues by \$501,207 per year, based on service volumes and costs for the twelve months ended December 31, 1981, as adjusted for the test period and would change the method by which the responsibility for providing compressor fuel is allocated among its customers.

Honeoye states that the principal reasons for the rate increase are necessary replacement of existing pipeline facilities, increased capital and construction costs related to storage capacity expansion, increased costs of operations and increases in the cost of capital.

Honeoye states the reason for modifying its method of compressor fuel allocation is administrative in nature, would have no effect on the company's revenues and expenses and would provide a more fair and equitable system than that presently in use.

Copies of the filing have been served upon Honeoye's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before May 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13872 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP82-81-000]

Inter-City Minnesota Pipelines, Ltd., Inc.; Proposed Changes in FERC Gas Tariff

May 13, 1982.

Take notice that on April 30, 1982, Inter-City Minnesota Pipelines, Ltd., Inc. (Inter-City) tendered for filing changes in its FERC Gas Tariff to be effective on June 1, 1982, consisting of the following revised tariff sheets:

Original Volume No. 1

- Sixteenth Revised Sheet No. 4, superseding
- Fifteenth Revised Sheet No. 4;
- Original Sheet No. 4A;
- First Revised Sheet No. 5, superseding
- Original Sheet No. 5;
- First Revised Sheet No. 12, superseding
- Original Sheet No. 12; and
- First Revised Sheet No. 32, superseding
- Original Sheet No. 32.

Original Volume No. 2

- Second Revised Sheet No. 11, superseding
- First Revised Sheet No. 11; and
- Second Revised Sheet No. 12, superseding
- First Revised Sheet No. 12.

Inter-City states that the proposed sheets would establish rate zones necessary to allow the company's rates accurately to reflect the cost of service to distinct service areas and are required to reflect an increase in rate of return and changes in other costs of system operation. Inter-City further states that the impact of the proposed changes is to reduce the cost of gas for the majority of customers, direct and indirect, served by the pipeline.

Any person desiring to be heard or to protest said filing should file a petition

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10. All such petitions or protests should be filed on or before May 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13873 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP82-79-000]

Louisiana-Nevada Transit Co.; Proposed Changes in FERC Gas Tariff

May 13, 1982.

Take notice that on April 30, 1982, Louisiana-Nevada Transit Company (LNT) tendered for filing a new FERC Gas Tariff, first Revised Volume No. 1 and Original Volume No. 2.

LNT states that the change in rate filed herein is to comply with § 154.38(d)(4)(vi)(a) of the Commission's Regulations and establish a new Base Tariff Rate under Louisiana-Nevada Transit Company's (LNT) purchased gas adjustment clause.

The new Base Tariff Rate amounts of 72.38¢/Mcf with a Base Cost of Gas of 54.96¢/Mcf. In addition a current purchased gas adjustment of 01.91¢/Mcf and a Deferred Cost Adjustment of 00.82¢/Mcf is applicable effective June 1, 1982 for a total rate of 75.11¢/Mcf. This is a reduction of 10.63¢/Mcf from the present rate of 85.74¢/Mcf including cumulative and deferred purchased gas cost adjustments.

LNT is concurrently restating its FPC Gas Tariff Original Volume No. 1 to reflect the change in the Commission's title from Federal Power Commission to Federal Energy Regulatory Commission and to include other changes as follows:

1. Rate Schedule X-2 has been removed from Volume I and placed in an Original Volume No. 2.
2. The availability provision of Section 1 of Rate Schedule G-1 has been revised to conform with the FERC order in Docket No. G-1440-001 issued September 30, 1981.
3. The PGA Adjustment Base Period (§ 16.4 of the General Terms and Conditions) has been revised to provide that it shall be the twelve months ended

two months (instead of three) prior to the effective date of the rate adjustment.

4. The Measurement provisions (Section 1 of the General Terms and Conditions) have been revised to reflect current industry standards and practices.

5. The quality provisions (Section 3 of the General Terms and Conditions) have been revised to conform to current practice.

6. A current Index of Purchasers has been included.

Copies of the filing were served upon LNT's jurisdictional customers, Arkansas Louisiana Gas Company and United Gas Pipe Line Company, and upon the Public Service Commissions of the States of Arkansas and Louisiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13874 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-500-000]

Louisville Gas & Electric Co.; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that Louisville Gas and Electric Company (Louisville) on May 5, 1982, tendered for filing proposed changes in its Interconnection Agreement between Louisville and Big Rivers Electric Corporation (Big Rivers) designated FERC Rate Schedule No. 27.

Louisville states that the purpose of this filing is to increase the demand charge for short term power as set forth on Service Schedule C from 85¢ per kilowatt per week to \$1.05 per kilowatt per week. This proposed revision reflects a desire on the part of both parties to attain the optimum benefit from the interconnection of their systems.

Louisville requests an effective date of July 5, 1982, and therefore requests

waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13838 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6261-000]

Madera Irrigation District; Application for Preliminary Permit

May 19, 1982.

Take notice that Madera Irrigation District (Applicant) filed on April 26, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 6261 to be known as the North Fork Willow Creek Project located on the North Fork Willow Creek in the Sierra National Forest in Madera County near the Town of Bass Lake, California. The application is on file with the commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert L. Stanfield, Manager, Madera Irrigation District, 12152 Road 28 1/4, Madera, California 93637.

Project Description—The proposed project would consist of: (1) diversion structure on North Fork Willow Creek at approximate elevation 4,400 feet; (2) a 5-foot-diameter, 9,000-foot-long low pressure conduit; (3) a 48-inch-diameter, 7,500-foot-long penstock; and (4) a powerhouse at elevation 1,650 feet containing generating units with a total capacity of 6,500 kW. Applicant estimates that the project would have an average annual output of 17,000 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant proposes to study the engineering, environmental, economic, and financial feasibility of the project during the term of the permit. Applicant

estimates that the studies and preparation of an application would cost between \$60,000 and \$100,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 30, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 29, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch,

Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13855 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6185-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

May 17, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on April 7, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6185 to be known as the Duffy Creek Project located on Duffy Creek, within Snoqualmie-Mt. Baker in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122-196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) A 36-inch wide concrete intake structure placed in the streambed at elevation 2,000 feet; (2) a diversion pipeline 8,000 feet long; (3) a powerhouse at 320 feet containing a turbine generator with 3.1 MW capacity and 13.45 GWh annual energy production; and (4) a transmission line 1 mile long. The potential market for project-generated energy includes Puget Sound Power and Light, the Bonneville Power Administration and the Intalco Aluminum Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is \$40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 26, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81-15, issued

October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 24, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must

also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13859 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-80-000]

Michigan Wisconsin Pipe Line Co.; Proposed Changes in FERC Gas Tariff

May 13, 1982.

Take notice that on April 30, 1982, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing proposed changes in its F.E.R.C. Gas Tariff, Original Volume No. 1 and First Revised Volume No. 2 to become effective June 1, 1982. Michigan Wisconsin states that the proposed rate increase is designed to recover Michigan Wisconsin's overall cost of service developed by utilizing a base period of twelve months ended January 31, 1982, adjusted for known and measurable changes through the end of the test period, October 31, 1982. The cost of service is approximately \$144 million over that underlying its presently filed rates—an increase of approximately 5.9%.

Michigan Wisconsin further states that the principal reasons for the cost of service increase are: (1) Additional investments in gathering facilities and the development of the Central Charlton storage field; (2) take or pay obligations to be incurred during the test period; (3) increased costs of capital; (4) increased depreciation; and (5) increased levels of operation and maintenance expenses.

Michigan Wisconsin states that the proposed rates are based on a sales level of 570 million dekatherms which reflects Michigan Wisconsin's customer estimates of declining market requirements and results in an additional increase in resale rates of approximately 2.7%.

For purposes of this filing, rates are based on Michigan Wisconsin's currently effective rate design, including classification of costs in accordance with the *United* decision. However, rate design in Michigan Wisconsin's rate increase application at Docket No. RP81-61 is an open issue at this date and, accordingly, Michigan Wisconsin proposes that rates in this proceeding be based on the final disposition of rate design in the earlier docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington,

D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before May 20, 1982.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-13875 Filed 5-20-82; 8:45 a.m.]

BILLING CODE 6717-01-M

[Docket No. ER82-496-000]

Mississippi Power Co.; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that Mississippi Power Company (Mississippi) on May 3, 1982, tendered for filing Supplemental Agreement with East Mississippi Electric Power Association (EMEPA) under its FERC Electric Tariff Original Volume No. 1. This agreement provides for the establishment of a new delivery point of EMEPA near Quitman, Mississippi. To establish service at this new point, Mississippi and EMEPA have entered into a supplemental agreement under the Company's FERC Electric Tariff Original Volume No. 1 (Second Revised Sheet No. 14).

Mississippi agrees to deliver up to a maximum of 8,500 kilowatts at 115,000 volts at the connections of the customer's 115 KV line to the 115 KV bus located in Mississippi's 115 substation at Quitman, Mississippi.

Mississippi states that this supplement will become effective on or about November 15, 1982, when the required additional facilities will be energized, at which time the existing Quitman delivery point (Supplement No. 7) will be discontinued.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13856 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP80-275-002, CI80-233-002, and CI82-216-000]

Mountain Fuel Supply Co., Wexpro Co. et al.; Application and Amendment May 13, 1982.

Take notice that on April 1, 1982,¹ Mountain Fuel Supply Company (Mountain Fuel), P.O. Box 11368, Salt Lake City, Utah 84139, and Wexpro Company (Wexpro), P.O. Box 11070, Salt Lake City, Utah 84147, filed in Docket No. CP80-275-002, Celsius Energy Company (Celsius), P.O. Box 11368, Salt Lake City, Utah 84139, filed in docket No. CI80-233-002 and Wexpro filed in Docket No. CI82-216-000 a joint application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing a sale of natural gas for resale in interstate commerce by Wexpro to Mountain Fuel, for permission and approval for Mountain Fuel to abandon interests so as to transfer certain natural gas reserves to Wexpro and, if the Commission deems necessary, certain leasehold interest to Celsius, and an amendment to the application filed on March 7, 1980, in Docket No. CP80-275 and in Docket No. CI80-233, all as more fully set forth in the application and amendment which is on file with the Commission and open to public inspection.

It is stated that Applicants and certain Utah and Wyoming interveners executed stipulations and agreement in the proceedings in Docket No. CP80-275 and in Docket No. CI80-233 before the state regulatory commissions. Applicants assert that the stipulations and agreement reflect an accord as to the manner in which Applicants' exploration and production operations would be conducted and how such production would be priced, the disposition of certain properties, and the allocation of benefits and obligations relating to such operations and properties. It is explained that under the provisions of the settlement agreements,

¹The amendment was initially tendered for filing on April 1, 1982, however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until April 21, 1982; thus filing was not completed until the latter date.

Wexpro and Celsius would explore and develop their currently producing and unexplored properties while at the same time Mountain Fuel's distribution customers would receive certain benefits. It is anticipated that Wexpro would conduct production activities on all presently productive oil and gas properties and that Celsius would conduct all exploratory activities.

In accordance with the stipulations and agreement Applicants hereby amend the applications filed in Docket Nos. CP80-275 and CI80-233 in four parts First, Applicants state that the production and related facilities associated with productive gas reservoirs are no longer proposed to be transferred to Celsius. Applicants aver that instead Wexpro would acquire the operating rights subject to Mountain Fuel's retention of the ownership of certain production therefrom and the facilities in place necessary to effect such production. Applicants state that title to the underlying leaseholds and operating rights would be transferred to Celsius. Because Mountain Fuel would retain ownership of the natural gas reservoirs there would be no sale for resale in interstate commerce within the meaning of the Natural Gas Act and Applicants do not seek any authorization from the Commission in connection with such gas, it is submitted.

Second, Applicants aver that the production and related facilities associated with productive oil reservoirs would not be transferred to Celsius. It is stated that Wexpro would own such facilities and all hydrocarbons produced therewith. Applicants state that natural gas production from existing and developmental oil wells in these productive oil reservoirs is proposed to be sold by Wexpro to Mountain Fuel at cost-of-service as set forth in Exhibit A of the agreement.

Third, Applicants explain that Mountain Fuel would transfer to Celsius title to all unexplored leasehold and/or operating rights held by Mountain Fuel in Account 105 of the Uniform System of Accounts as of July 31, 1981. It is stated that consistent with the agreement hydrocarbons produced from exploratory properties would be sold at applicable market prices subject to a 7 percent overriding royalty reserved to Mountain Fuel. Applicants also assert that Mountain Fuel or a designated affiliate would have a first right to purchase any natural gas produced by Celsius from exploratory properties, subject to certain conditions. Applicants submit that in view of the stipulations and agreement, Mountain Fuel and

Celsius are no longer seeking Commission authorization for the transfer of these properties.

Fourth, Celsius withdraws its application in Docket No. CI80-233. It is averred that under the terms of the stipulations and agreement Mountain Fuel would transfer to Celsius all leasehold interests associated with productive gas reservoirs identified as "Account 101 Leaseholds" on Schedule 4(a) to the agreement. Applicants submit that in view of the settlement reflected in the stipulations and agreement, it would be appropriate for the Commission to disclaim jurisdiction over the transfer of such leases to Celsius. Should the Commission conclude otherwise, Mountain Fuel requests that it grant such authorization as it deems required to transfer such leases to Celsius.

Wexpro proposes to sell all gas produced from existing developmental oil wells in defined productive oil reservoirs to Mountain Fuel at a cost-of-service as described in Exhibit A to the agreement. To implement the sale, Mountain Fuel requests such abandonment authority as the Commission deems necessary for the transfer to Wexpro of the ownership interest in such natural gas reserves. It is stated that except for the natural gas reserved to Mountain Fuel in the subject formations, Wexpro presently owns all leasehold and production properties related to these productive oil reservoirs.

Applicants assert that consistent with the settlement agreement any such gas produced from existing or developmental oil wells would be priced on a cost-of-service basis subject to monthly adjustment. To avoid the need to make monthly rate change filings pursuant to Section 4 of the Natural Gas Act, Wexpro requests specific Commission approval of the monthly cost-of-service formula contained in Exhibit A to the agreement and Commission waiver of Section 154.94 of its Regulations and any other applicable regulations. Wexpro proposes to submit an annual report setting forth each of the monthly rates charged during the previous year.

Applicants state that upon commencement of the sale to Mountain Fuel, Wexpro may become a natural gas company under the Natural Gas Act. To comply with § 157.24 of the Commission's Regulations, Applicants state that:

(1) The gas proposed for sale to Mountain Fuel would be produced from the wells listed in Exhibit A appended to the instant application or from future

developmental drilling in productive oil reservoirs.

(2) Wexpro neither owns nor operates any transmission lines for the transportation of gas in interstate commerce.

(3) No communities were served by Wexpro on June 7, 1954, nor are they proposed to be served.

(4) No main line industrial customer would be served by Wexpro pursuant to this sale.

(5) The sale proposed herein does not involve the use of any major appurtenances of Wexpro subject to the jurisdiction of the Commission.

(6) None of the gas attributable to the applications has been, nor would it be, used to discharge refund obligations or to trigger contingent escalations within the meaning of Section 2.56(a)(i) of the Commission's General Policy and Interpretations.

Any person desiring to be heard or to make any protest with reference to said application and amendment should on or before June 4, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons having heretofore filed in Docket Nos. CP80-275 and CI80-233 need not so again.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its review of the matter finds that a grant of the certificates is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13876 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-87-000]

National Fuel Gas Supply Corp.; Proposed Tariff Change

May 13, 1982.

Take notice that on April 30, 1982, National Fuel Gas Supply Corporation ("National Fuel") tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Substitute Thirty-seventh Revised Sheet No. 4 proposed to be effective June 1, 1982.

National Fuel states that the purpose of this revised tariff sheet is to implement the recent decision of the United States Court of Appeals for the Fifth Circuit in *Mid-Louisiana Gas Company v. Federal Energy Regulatory Commission*, 664 F.2d 530 (1981). The proposed increase in cost of gas purchased sold results from pricing National Fuel's pipeline production at the applicable NGPA prices.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13877 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-293-000]

Natural Gas Pipeline Co. of America; Application

May 17, 1982.

Take notice that on April 20, 1982, Natural Gas Pipeline Company of

America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-293-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Transcontinental Gas Pipe Line Corporation (Transco), Columbia Gas Transmission Corporation (Columbia Gas), Columbia Gulf Transmission Company (Columbia Gulf) and Michigan Wisconsin Pipe Line Company (Mich Wis) and the construction and operation of natural gas facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport the Project Central Texas Loop (PCTL) gas supplies of Transco, Columbia Gas, Columbia Gulf and Mich Wis from Texas for redelivery into their mainline systems in Louisiana. It is stated that Transco, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Columbia Gulf, Mich Wis and Northern Natural Gas Company, Division of InterNorth, Inc. filed in Docket No. CP82-158-000 an application for a certificate of public convenience and necessity to build the PCTL. Applicant explains that the application filed in Docket No. CP82-158-000 was intended to expand the capacity of Transco's Central Texas Gathering System from 369,000 Mcf per day to a total capacity of 1,119,000 Mcf per day to handle gas expected to be available and dedicated to the applicants in Docket No. CP82-158-000 in the Brazos, Galveston, Mustang Island and Matagorda Island areas, offshore Texas. Applicant states that the proposed transportation would enable the movement of significant quantities of gas without the need for the construction of extensive new or expanded pipeline facilities by Transco, Columbia Gulf, Columbia Gas and Mich Wis to move their gas from PCTL into their mainline systems.

To assist Mich Wis prior to receipt of the authorization sought in the instant application, Applicant states it has agreed to transport the gas on a best-effort basis pursuant to Applicant's blanket transportation certificate in Docket No. CP80-125, Section 284.221 of the Commission's Regulations, and the terms of a limited term gas transportation agreement dated February 18, 1982, with Mich Wis.

Applicant asserts that on February 16, 1982, April 1, 1982, and March 30, 1982, it entered into individual transportation agreements with Mich Wis, Transco and jointly with Columbia Gas and

Columbia Gulf, respectively. Applicant submits that the volume, receipt points

and redelivery points for each agreement are summarized as follows:

| Shipper | Receipt point | Interim | | Long term | |
|--------------------------------|---------------|-----------------------------------|---------|---|---------------------------------|
| | | Demand volume million Btu per day | | Best-efforts volume million Btu per day | Redelivery point |
| Transco | Refugio, Tex. | 50,000 | 100,000 | 33 1/2 pct of demand volume | UTOS, La. |
| | Wharton, Tex. | 100,000 | 200,000 | | |
| Columbia Gulf and Columbia Gas | Refugio, Tex. | 40,000 | | 33 1/2 pct of demand volume | Cameron, La. Pecan Lake, La. |
| | Wharton, Tex. | 80,000 | | 25 pct of demand volume | |
| Mich Wis | Refugio, Tex. | 16,500 | | 25 pct of demand volume | Lake Arthur, La. |
| | Wharton, Tex. | 33,500 | | 25 pct of demand volume | |

¹ Before Jan. 1, 1983. ² After Jan. 1, 1983.

Applicant proposes to charge for the proposed transportation the following rates:

| Shipper | Receipt point | Monthly demand rate per million Btu | Overrun rate per million Btu (cents) |
|--------------------------------|---------------|-------------------------------------|--------------------------------------|
| Transco | Refugio, Tex. | \$4.32 | 14.2 |
| | Wharton, Tex. | 3.01 | 9.9 |
| Columbia Gulf and Columbia Gas | Refugio, Tex. | 5.20 | 17.1 |
| | Wharton, Tex. | 3.92 | 12.9 |
| Mich Wis | Refugio, Tex. | 5.08 | 16.7 |
| | Wharton, Tex. | 3.80 | 12.5 |

As summarized above, Applicant proposes initially to charge the shippers a monthly transportation demand charge equal to the demand quantities times the monthly demand rate. Applicant states that during the interim period and long-term period Transco would be charged a fee based on the interim demand quantity and the long-term demand quantity, respectively. Applicant asserts that in addition to the transportation demand charges, the shippers would pay Applicant the commodity charges for each million Btu of overrun gas delivered at Applicant's receipt points. Applicant explains that these initial rates are based upon Applicant's onshore transmission charge set forth in Docket No. RP8149. It is averred that such initial rates are subject to adjustment to reflect final resolution of rate proceeding and are also subject to further adjustment by virtue of other Section 4 rate filings of Applicant.

Applicant states that pursuant to the transportation agreements it would construct any and all facilities necessary to provide and maintain firm service.

It is stated that Applicant sought authorization in Docket No. CP82-50-000 to construct 37.38 miles of 36-inch pipeline loop on the Louisiana Line to transport up to 300 billion Btu of natural gas per day. Applicant states that the

transportation services proposed in the instant application and that proposed in Docket No. CP82-50-000 are totally independent but each requires additional facilities to move additional gas to the east on the Louisiana Line. Applicant explains that the combined additional facilities proposed and the combined transportation volumes are as follows:

| Docket No. and shippers | Louisiana Line facilities (36-in loop) (miles) | Million Btu per day |
|---|--|---------------------|
| CP82-50-000 Trans-Anadarko | 37.38 | 300,000 |
| CP82-293-000 Columbia Gas, Columbia Gulf and Mich Wis | 8.16 | 170,000 |
| Total | 45.54 | 470,000 |

Applicant asserts that if the Commission does not authorize construction of the facilities proposed Docket No. CP82-50-000 before the facilities proposed in the instant application are authorized the facilities required to provide the proposed transportation would be as follows:

| Docket No. and shippers | Louisiana Line facilities (36-in loop) (miles) | Volumes million Btu per day |
|--|--|-----------------------------|
| CP82-293-000 Columbia Gas and Mich-Wis | 27.50 | 170,000 |
| CP82-50-000 Trans-Anadarko | 18.04 | 300,000 |
| Total | 45.54 | 470,000 |

Applicant therefore proposes to construct and operate 8.16 miles of 36-inch diameter pipeline loop on Applicant's Louisiana Line extending eastward from the east end of the 37.38 mile pipeline loop proposed in Docket No. CP82-50-000 to permit the firm redelivery of 120 billion Btu per day to

Columbia Gas and 50 billion Btu per day to Mich Wis. Applicant also proposes to construct a meter station at Pecan Lake including two 12-inch meter runs and one 12-inch side tap to make adjustments at Station 343 to reverse the direction of flow, and to construct such other appurtenant facilities as may be required. Applicant states that the cost for the proposed facilities would be \$7,550,000.

In the event that Applicant's application in Docket No. CP82-50-000 is not approved before the granting of the certificate in the instant application, Applicant proposes in the alternative to construct and operate 27.5 miles of 36-inch pipeline loop. Furthermore, Applicant proposes to modify Station 342 but not Station 343. Applicant states that the construction of a meter station at Pecan Lake would still be required. It is asserted that the cost for the proposed facilities would be \$31,021,000.

In the Gulf Coast South End area, Applicant proposes to construct 3,525 feet of 20-inch diameter pipeline to connect Applicant's system to Transco's system in Refugio County, Texas. Applicant also proposes to install eight 12-inch meter runs (three at Refugio County and five at Wharton County), four taps, including two 10-inch taps at Refugio County and one 12-inch tap and one 10-inch tap at Wharton County, and such appurtenant facilities as may be required to facilitate the receipt of the Brazos gas. Applicant assumes that the facilities proposed in Docket No. CP82-50-000 would be certified before the proposed facilities in the instant application and therefore proposes to modify Station 302 to flow gas into the Louisiana Line. It is stated that the estimated cost of these receipt facilities would be approximately \$2,012,000. In the event the facilities for which authorization is requested in Docket No. CP82-50-000 are authorized after the proposed construction in the instant application is approved, Applicant states that Station 302 would not require modification. However, all other proposed facilities in the Gulf Coast South End area would still be required, it is averred. The cost of these facilities would then be approximately \$1,808,000, it is submitted.

Applicant states that all financing in the instant application would be achieved initially with funds on hand, issuance of commercial paper, use of existing bank lines of credit or other interim financing arrangements as may be negotiated. Applicant explains that permanent financing subsequently would be undertaken as part of

Applicant's overall long-term financing program.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules and Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13857 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-492-000]

Pacific Gas & Electric Co.; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that on May 3, 1982, Pacific Gas and Electric Company (PG&E) tendered for filing revised copies of Volumes 2, 3, 4, 5, 6 and 7 filed on February 1, 1982, in Docket No. ER82-271 requesting permission to reduce from \$5 million to a level of \$3.2 million the September 5, 1982 Phase II increase

authorized by the Commission in its March 30, 1982 order.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13858 filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5828-000]

Pacific Gas & Electric Co.; Application for License for Transmission Line Only
May 18, 1982.

Take notice that on December 28, 1981, Pacific Gas and Electric Company (PG&E) filed an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] to construct, operate, and maintain a transmission line to be known as Monticello PH 115-kV Tap Project, FERC No. 5828, which would connect Solano Irrigation District's Monticello Power Plant Project (FERC No. 2780) to PG&E's Fulton Junction to Fulton, 115-kV transmission line. The project would be located in the Counties of Napa and Yolo, near Winters, California. Correspondence with the Applicant on this matter should be addressed to: Mr. W. M. Gallavan, Vice President, Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, Room 1087A, San Francisco, California 94106, with a copy to Mr. Louis E. Vincent, Attorney, Pacific Gas and Electric Company, Law Department, P.O. Box 7442, San Francisco, California 94120.

Project Description—The proposed project would consist of 0.6-mile long, 115-kV, single-circuit wood pole transmission line, extending from Monticello Power Plant to PG&E's Fulton Junction—Fulton line at tower No. 5/28.

Purpose of Project—The transmission line would transmit power from the proposed Monticello Power Plant Project to PG&E's system.

Estimated Cost—The cost of the project is estimated by the Applicant to be about \$110,000.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 8, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An

additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13659 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6149-000]

Douglas B. Parkinson; Application for Preliminary Permit

May 19, 1982.

Take notice that Douglas B. Robinson (Applicant) filed on March 31, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6149 to be known as the Griffin Creek Power Project within Plumas National Forest located on Griffin Creek near towns of Paradise, Chico and Oroville in Butte County, California. The Application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Edward Schillinger, 6460 Fickle Hill Road, Arcata, California 95521.

Project Description—The proposed project would consist of: (1) A 4-foot high diversion structure; (2) a 24-inch diameter, 1,300-foot long low pressure steel conduit; (3) an 18-inch diameter, 1,000-foot long penstock; (4) a powerhouse with a total installed capacity of 300 kWh and (5) a 3,000-foot long, 12.5-kV transmission line interconnecting with an existing PG&E transmission line. The Applicant estimates that average annual energy output would be 2.6 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant is seeking a preliminary permit for a period of 36 months during which he would conduct engineering, environmental and economic studies, and prepare an FERC exemption application. The Applicant estimates that the cost of conducting these studies would be \$20,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 29, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq.

(1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 29, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 27, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A

copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13860 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-502-000]

Pennsylvania Power & Light Co.; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that on May 6, 1982, Pennsylvania Power & Light Company (PP&L) tendered for filing Supplements to Power Supply Agreements which relate to certain electric resale schedules presently on file with the Commission. Those rate schedules are designated PP&L Rate Schedule FERC Nos. 28, 32, 45, 50, 51, 54, 56, 57, 58, 61, 63, 65, 69, 70 and 71.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13840 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-494-000]

Pennsylvania Power & Light Co.; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that Pennsylvania Power & Light Company (PP&L), on May 3, 1982, tendered for filing proposed changes in its Rate Schedule FERC Nos. 28, 32, 45, 50, 51, 54, 56, 57, 58, 63, 65, 69, 70, 71 and 61, applicable to the Boroughs of Watsonstown, Duncannon, Blakely, Weatherly, Schuylkill Haven, Perkasio, St. Clair, Catawissa, Ephrata, Lehighton, Olyphant, Hatfield, Mifflinburg,

Quakertown and to Citizens' Electric Company of Lewisburg, respectively. The proposed changes would increase revenues from jurisdictional sales and service by \$3,293,412 or 17.6 percent, based on the 12-month period ending December 31, 1982.

The proposed increase is required by the increase in the cost of providing service to said jurisdictional customers which PP&L has experienced since the base rates of these customers became effective on August 9, 1981.

Copies of the filing were served upon PP&L's jurisdictional customers named above and upon the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13841 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-493-000]

Pennsylvania Power & Light Co.; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that on May 3, 1982, the Pennsylvania Power & Light Company (PP&L) tendered for filing proposed changes in the fuel adjustment clauses applicable to its Rate Schedule FERC Nos. 28, 32, 45, 50, 51, 54, 56, 57, 58, 63, 65, 69, 70, 71 and 61, applicable to the Boroughs of Watsonstown, Duncannon, Blakely, Weatherly, Schuylkill Haven, Perkasio, St. Clair, Catawissa, Ephrata, Lehighton, Olyphant, Hatfield, Mifflinburg, Quakertown and to Citizens' Electric Company of Lewisburg, respectively. The proposed changes would modify the fuel adjustment clauses so that the fuel adjustment charges will not be affected by energy produced by facilities undergoing test operation.

PP&L states that the proposed modification is required to ensure that

the value of test power produced by the Company's Susquehanna nuclear power plant during its test operation in late 1982 and early 1983 will be accounted for properly.

Copies of the filing were served upon PP&L's jurisdictional customers and upon the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13861 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-495-000]

Public Service Company of New Mexico; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that on May 3, 1982, Public Service Company of New Mexico (PNM) tendered for filing a Letter Agreement dated April 26, 1982, amending the Contingent Capacity Sales Agreement (Agreement) between PNM and San Diego Gas & Electric Company (SDG&E) for sale of 236 MW of contingent capacity from PNM's San Juan Generation Station Unit 4.

PNM requests an effective date of May 1, 1982, and therefore requests waiver of the Commission's notice requirements.

According to PNM copies of the filing have been served upon SDG&E and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests

should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13842 filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. ER82-389-000 and ER82-80-000]

Public Service Company of Oklahoma; Order Accepting for Filing and Suspending Revised Rates, Granting Interventions, Consolidating Proceedings, and Establishing Hearing Procedures

May 14, 1982.

On March 16, 1982, Public Service Company of Oklahoma (PSO) tendered for filing increased rates for firm power service to ten full requirements and eleven partial requirements customers and for transmission service and thermal energy provided to the Southwestern Power Administration (SWPA).¹ The proposed rates would result in an increase in revenues of approximately \$1,940,000 (5.0%) above the level produced by PSO's rates which are currently being collected subject to refund in Docket No. ER82-80-000.² PSO states that the rate increase in this proceeding is intended to supplement the rate increase in Docket No. ER82-80-000, in order to recover PSO's proportionate share of the investment and cancellation costs associated with the recently cancelled Black Fox Nuclear Plant.³ PSO requests that these rates be made effective on May 15, 1982. PSO also requests that this proceeding be consolidated with the proceeding in Docket No. ER82-80-000.

Notice of PSO's filing was issued on March 23, 1982, with responses due by April 9, 1982. On April 6, 1982, Mr. Tom

¹ See Attachment A for rate schedule designations.

² By order dated January 8, 1982, in Docket No. ER82-80-000, the Commission accepted PSO's submittal for filing to become effective after a one day suspension on January 10, 1982. PSO concurrently filed an application to collect rates based on construction work in progress (CWIP); the CWIP application was set for hearing and phased to follow the Commission's action on the proposed rulemaking on CWIP in Docket No. RM81-38-000.

³ According to PSO, the sponsors of the Black Fox station (including PSO) informed the Nuclear Regulatory Commission of the cancellation on February 16, 1982.

Crider, Mayor of the City of New Cordell, Oklahoma, filed a protest, alleging that PSO's rate increases create a hardship on the citizens of New Cordell and that PSO's rate levels hamper New Cordell's ability to compete for new industries. Mr. Crider has not, however, petitioned to intervene in this proceeding.

On April 5, 1982, the Secretary of the Army, on behalf of the Department of Defense (DOD), filed a protest, motion, and petition to intervene. DOD is a SWPA preference customer affected by PSO's rate schedule RE-6. DOD challenges several aspects of the proposed rates, including (1) the level of revenue credits relating to off-system sales; (2) the appropriateness of estimated costs relating to cancellation of the Black Fox Plant and the amortization period for such costs; (3) the proposed inclusion in rate base of CWIP-related deferred taxes; (4) calculation of accumulated deferred income taxes pursuant to Internal Revenue Service Regulation 167(1); and (5) the requested return on equity. DOD moves for a five month suspension.

On April 9, 1982, a petition to intervene, protest, motion for maximum suspension, and answer supporting motion to consolidate was filed by the Oklahoma Municipal Power Authority, the Municipal Electric Systems of Oklahoma, and the Municipal Wholesale Customers of PSO (Municipalities).⁴ The Municipalities raise several of the issues raised by DOD. In addition, they state their intention to explore the implications for this proceeding of a PSO capacity transfer agreement recently noticed in Docket No. ER82-420-000. The Municipalities request a five month suspension and support PSO's motion to consolidate this docket with Docket No. ER82-80-000.

On April 9, 1982, an additional protest, petition to intervene, and petition for suspension and hearing was filed by the Western Farmers Electric Cooperative and Kamo Electric Cooperative, Inc. (Cooperatives). The Cooperatives, as part owners of the Black Fox Plant, state that they have a substantial interest in PSO's proposed write-off of its

⁴ The individual municipal customers of PSO include the Cities of Duncan, Comanche, Cordell, Altus, Copan, Hominy, Walters, Marlo, Frederick, Wetumka, Pawhuska, and Kaw, and the Towns of Granite, Ryan, Olustee, Manitou, and Eldorado, and the Anadarko Public Works Authority. The Oklahoma Municipal Power Authority is a joint action power agency created by the Oklahoma legislature to develop sources of electric power supply for public systems. The Municipal Electric Systems of Oklahoma constitutes an association of certain of the municipal electric utilities in Oklahoma.

investment in the plant. The Cooperatives request a one day suspension and agree that it is appropriate to consolidate the instant docket with the pending PSO rate case.

An untimely petition to intervene and a motion for leave to file out of time were filed by the Attorney General of the State of Oklahoma (Attorney General). The Attorney General is an intervenor in proceedings involving the PSO before the Oklahoma Corporation Commission and the Nuclear Regulatory Commission concerning the cancellation of the Black Fox project. The Attorney General states that his late filed petition was occasioned by a heavy workload and personal illness. The Attorney General questions: (1) the prudence of PSO's expenditures for Black Fox and the recovery of those expenditures in proceedings before this Commission; (2) the propriety of maintaining a stockpile of coal; and (3) the effects of certain transactions involving PSO's wholly-owned subsidiary, Transok Pipeline Company, on PSO's cost of service.

On April 26, 1982, PSO filed an answer to the various petitions to intervene in which it supported intervention by the petitioners and responded to matters raised in the pleadings.

Discussion

The Commission finds that good cause exists to accept the late filed intervention of the Attorney General. The Commission further finds that participation in this proceeding by each of the petitioners is in the public interest. Accordingly, their petitions to intervene will be granted.

Our preliminary examination of PSO's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

We recently addressed the Commission's suspension policy in *West Texas Utilities Company*, Docket No. ER82-23-000 (February 26, 1982). In that order, we noted that the rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. In the instant proceeding, our preliminary review suggests that the proposed rates may yield substantially excessive revenues. Accordingly, we shall suspend PSO's rates for five months, to become

effective, subject to refund, on October 16, 1982.

With the exception of the Black Fox cancellation costs, the costs of service at issue in Docket Nos. ER82-80-000 and ER82-389-000 are substantially the same. Because common questions of law and fact may be presented, we shall consolidate those dockets for purposes of hearing and decision.

We note that PSO has requested an opportunity to address in this proceeding the question of whether CWIP-related deferred tax balances must be deducted from rate base in light of the Commission's limited holding in *Northern States Power Company (Minnesota), et al.*, Docket No. ER79-616, Opinion No. 134 (December 3, 1981), that the subject utility need not deduct from rate base accumulated deferred tax balances (ADIT) associated with abandoned plant. We have already ruled on this issue in *Union Electric Company*, Docket No. ER81-450-000 (March 18, 1982). In that order, the Commission denied Union Electric's request for rehearing of an earlier order⁵ that required deduction of CWIP-related deferred taxes from rate base. We stated that CWIP represents investment that is intended ultimately to be included in rate base and is expected to generate a return and create a tax liability. The generic distinction between the rate and tax consequences applicable to abandoned plant and plant under construction is significant, rendering the approach followed in Opinion No. 134⁶ inapposite to a case involving CWIP-related ADIT. As a result, this issue is not appropriate for further consideration.⁷

The Commission orders:

(A) PSO's revised rates are hereby accepted for filing and are suspended for five months from sixty days after filing, to become effective on October 16, 1982, subject to refund.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal

Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of PSO's rates.

(C) Docket Nos. ER82-80-000 and ER82-389-000 are hereby consolidated for purposes of hearing and decision.

(D) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however*, that participation by such intervenors shall be limited to the

matters set forth in their petitions to intervene; and *provided, further*, that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(E) The Commission staff shall serve top sheets in this proceeding on or before May 28, 1982.

(F) The administrative law judge designated to preside in Docket No. ER82-80-000 shall determine the procedures best suited for consideration of these consolidated proceedings.

(H) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission,
Kenneth F. Plumb,
Secretary.

ATTACHMENT A—PUBLIC SERVICE COMPANY OF OKLAHOMA DOCKET NO. ER82-389-000 RATE SCHEDULE DESIGNATIONS

| Designation rate schedule | Supplement No. | Super-sedes supplement No. | Other party | Description |
|---------------------------|----------------|----------------------------|----------------------|-------------|
| FPC No. 168..... | 8 | 7 | Altus..... | RE-5. |
| FPC No. 169..... | 8 | 7 | Frederick..... | Do. |
| FPC No. 170..... | 8 | 7 | New Cordell..... | Do. |
| FPC No. 171..... | 8 | 7 | Kaw City..... | Do. |
| FPC No. 188..... | 8 | 7 | Anadarko..... | Do. |
| FPC No. 189..... | 6 | 5 | So. Coffeyville..... | Do. |
| FPC No. 190..... | 7 | 6 | Marlow..... | Do. |
| FPC No. 192..... | 8 | 7 | Pawhuska..... | Do. |
| FPC No. 196..... | 5 | 4 | SWPA..... | Rev. p21-4. |
| FERC No. 197..... | 7 | 6 | WFEC..... | RE-5. |
| FERC No. 198..... | 7 | 6 | KAMO..... | Do. |
| FERC No. 212..... | 4 | 3 | Hornity..... | RE-6. |
| FERC No. 213..... | 4 | 3 | Copan..... | Do. |
| FERC No. 214..... | 4 | 3 | Manitou..... | Do. |
| FERC No. 215..... | 4 | 3 | Walters..... | Do. |
| FERC No. 216..... | 4 | 3 | Granite..... | Do. |
| FERC No. 217..... | 4 | 3 | Eldorado..... | Do. |
| FERC No. 218..... | 4 | 3 | Clustee..... | Do. |
| FERC No. 219..... | 4 | 3 | Comanche..... | Do. |
| FERC No. 220..... | 4 | 3 | Ryan..... | Do. |
| FERC No. 221..... | 4 | 3 | Wetumka..... | Do. |
| FERC No. 222..... | 4 | 3 | Duncan..... | Do. |

[FR Doc. 82-13912 Filed 5-20-82; 8:45am]

BILLING CODE 6717-01-M

[Project No. 4490-001]

Richvale Irrigation District; Application for Exemption of Small Conduit Hydroelectric Facility

May 17, 1982.

Take notice that on March 19, 1982, Richvale Irrigation District (Applicant) filed an application, under Section 30 of the Federal Power Act (Act) [16 U.S.C. 823(a)], for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Sutter-Butte Project (FERC Project No. 4490) would be located on the Sutter-Butte Canal in Butte County, California. Correspondence with the Applicant should be directed to: Mr. Loyd E. Horn,

Richvale Irrigation District, P.O. Box 147, Richvale, California 95974.

Project Description—The proposed project would consist of: (1) Installation of a steel lining in the four existing Sutte-Butte Canal outlet culverts; (2) a 400-foot-long, 13-foot-diameter penstock connected to the outlet structure; and (3) a powerhouse located in the canal containing two 1,500 kW generating units and a bypass conduit. Applicant estimates that the project would have an average annual energy production of 10,000 MWh.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the California

⁵ *Union Electric Company*, Docket No. ER81-450-000 (July 7, 1981).

⁶ For a discussion of the distinctions between Opinion No. 134, and this situation, including the limitations of and rationale underlying Opinion No. 134, see Order No. 144, Final Rule, Docket Nos. RM80-42, et al., at 114-15, 15 FERC ¶ 61,133 (1981), and Order No. 144-A, "Order Denying Rehearing, Lifting Stay, And Clarifying Order," Docket Nos. RM80-42, et al., 18 FERC ¶ 61,163 (February 22, 1982).

⁷ PSO has requested that the Commission refund a portion of the filing fee submitted in this docket based on the "supplemental" nature of its submittal. Authority to act on such requests has been delegated to the Acting Director of the Office of Electric Power Regulation (18 CFR § 375.308(hh)) and we believe that he is in the best position to consider the merits of the company's position.

Department of Fish and Game are requested, for the purposes set forth in Section 30 of the Act, to submit within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capita letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13632 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-499-000]

Southern California Edison Co.; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that on May 6, 1982, Southern California Edison Company (Edison) tendered for filing a correcting supplement to its Rate Schedule FERC No. 117.

Edison requests that the Commission's prior notice requirements be waived and that the correcting supplement be permitted to become effective as of January 1, 1981.

Copies of this filing were served upon Pacific Gas and Electric Company and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13643 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6135-000]

Michael Earl Springer and James Baynard Boulden; Application for Preliminary Permit

May 17, 1982.

Take notice that Michael Earl Springer and James Baynard Boulden (Applicant) filed on March 29, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6135 to be known as the New Age Water Power Project located on the Lower Lost Cannon Creek in Mono County,

California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James B. Boulden, 729 Sexton Road, Sebastopol, California 95472.

Project Description—The proposed project to be located within the boundaries of Toiyabe National Forest, would consist of: (1) A 3-foot high by 8-foot long diversion structure; (2) a 1.2-mile long water conduit; (3) a powerhouse with an installed capacity of 300 kW; and (4) a 3-mile long transmission line to connect to an existing Sierra Pacific Power Company line.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of the project and to prepare an FERC license application. No new road would be required to conduct the studies.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 26, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 24, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the

requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13845 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-497-000]

Southwestern Electric Power Co.; Filing

May 17, 1982.

The filing Company submits the following:

Take notice that on May 3, 1982, Southwestern Electric Power Company (SWEPCO) tendered for filing Service Schedules ES (Emergency Service), RE (Replacement Energy) and EC (Economy Energy) to the Interconnection Agreement between SWEPCO and Oklahoma Gas and Electric Company (OG&E) which was accepted for filing in Docket No. ER81-689.000 and designated as Rate Schedule FERC No. 78 and 112 for SWEPCO and OG&E respectively.

SWEPCO requests waiver of the prior notice requirements to allow for an effective date of March 30, 1982.

A copy of the filing was furnished to the Oklahoma Corporation Commission, the Arkansas Public Service

Commission and Oklahoma Gas and Electric Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13844 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RA82-15-000]

Thriftway Co.; Filing of Petition for Review

May 17, 1982.

Take notice that Thriftway Company, Inc. on March 31, 1982 filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before June 1, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before June 1, 1982, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John

McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13862 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA82-2-56-000]

Valero Interstate Transmission Co.; Purchase Gas Cost Adjustment Filing

May 13, 1982

Take notice that on April 30, 1982, Valero Interstate Transmission Company ("Vitco") tendered for filing Original Supplement No. 37 (purchase gas cost adjustment) to Rate Schedule 1 superseding previous purchased gas cost adjustments. Vitco states that Exhibit A to Original Supplement No 37 reflects the six months change in purchased gas costs based on the six months ended February 28, 1982. Vitco requests waiver of any Commission regulation which would prohibit implementation of Supplement No. 37. The change in rate provided in Exhibit A to Original Supplement No. 37 includes an increase in purchased gas costs of 2.86 cents/Mcf and a negative surcharge of 31.74 cents/Mcf designed to eliminate the balance in deferred purchased gas account. It is stated that these rates include no incremental pricing feature because Vitco was granted an exemption from certain filing and accounting requirements in Docket No. SA80-42.

The proposed effective date for Original Supplement No. 37 is June 1, 1982. Vitco states that copies of the filing have been served to the only customer served under Rate Schedule 1, Natural Gas Pipeline Company of America.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13865 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6122-000]

Timothy A. Ward; Application for Preliminary Permit

May 17, 1982.

Take notice that Timothy A. Ward (Applicant) filed on March 22, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6122 to be known as the Champlain Feeder Canal Project located on Champlain Feeder Canal in Washington County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Timothy A. Ward, Box 342, White Hall, New York 12887.

Project Description—The proposed project would consist of the following: (1) Reconditioning an existing series of five abandoned locks owned by the New York State Department of Transportation; (2) reconditioning the canal above and below the locks; (3) a proposed 100-foot long raceway; (4) a proposed 500-foot long steel penstock; (5) a proposed powerhouse containing one 350-kW turbine/generator unit; (6) a proposed tailrace; (7) a proposed transformer and 800-foot long, 13.2-kV transmission line; and (8) appurtenant facilities. The average annual generation of 1.25 million kWh would be sold to Niagara Mohawk Corporation.

Proposed Scope of Studies Under Permit—A preliminary permit if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of studies under permit would be \$5,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 23, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application

for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 26, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13834 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-85-000]

Western Gas Interstate Co.; Proposed Changes in FERC Gas Tariff

May 14, 1982.

Take notice that on April 30, 1982 Western Gas Interstate Company ("Western") tendered for filing proposed changes in its FERC Gas Tariff to be effective on June 1, 1982, consisting of the following tariff sheets.

Original Volume No. 1

Title Page
First Revised Sheet No. 2
Twentieth Revised Sheet No. 3A
Second Revised Sheet No. 4
Second Revised Sheet No. 5
Second Revised Sheet No. 6
Third Revised Sheet No. 7
Third Revised Sheet No. 8
Third Revised Sheet No. 9
Second Revised Sheet No. 14
Second Revised Sheet No. 15
Second Revised Sheet No. 16

Original Volume No. 2

Title Page
Sixth Revised Sheet No. 1A
First Revised Sheet No. 9
Third Revised Sheet No. 22

Western requested in its filing that the Commission suspend such changes in rates for a period of one day rather than for a five month period as permitted under Section 4(e) of the Natural Gas Act.

The proposed changes would increase revenues from jurisdictional sales and transportation by \$1,608,926, based upon the calendar year 1981, as adjusted. Such revenue increase is exclusive of increases in purchased gas costs which will occur prior to the rates involved becoming effective and which would otherwise be recovered through the purchased gas adjustment clause provisions of Western's tariff.

Western states that the principal reasons for the proposed rate increase are: (1) increase in overall rate of return necessary to maintain its financial integrity; (2) increases in plant and related cost of service items; (3) increases in cost of materials, supplies, wages, services, and other operating expenses necessary to maintain and operate its pipeline system and appurtenances; (4) increases in taxes;

and (5) recent significant decreases in the volumes of gas sold by Western.

Western further states that in light of current uncertainties of the costs for transmission and compression by others, Western has included in the instant Notice of Rate Change "Alternative Tariff Sheets" which include 37.92¢/Mcf average transmission and compression by others cost under its Rate Schedule G-R. Pro Form Tariff Sheets are also included to reflect proposed Section 21, "Transmission and Compression of Gas by Others Adjustment Provision" under General Terms and Conditions contained in Original Volume No. 1. Western requests that the "Alternative Revised Tariff Sheets" be made effective subject to the express condition that, thereafter, Western be permitted to file revisions to such tariff sheets from time to time to reflect changes in the cost of transmission and compression of gas by others resulting from variations in the volume of gas transported and from changes in the tariff prices of other natural gas companies for transmission and compression of gas. This provision applies to all rate schedules, although the base cost of transmission and compression of gas for Rate Schedules G-N, G-S, T-1, T-2 and T-3 is presently zero.

Western also proposes to implement a demand charge in each of its three Volume I rate schedules: G-N, G-R, and G-S, based on the contract demands contained in the service agreements with each of its customers. Western proposes that the demand-related costs to be included in the demand charge determined by application of the Atlantic Seaboard Formula.

Western states that there are other changes in its tariff in the sheets tendered but that these changes are either minor word changes for clarification, updating of required information, or changes required to bring such sheets into conformity with the proposed rates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 21, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a

petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13866 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA82-2-57-000]

Western Transmission Corp.;
Proposed Changes

May 13, 1982.

Take notice that Western Transmission Corporation (Western), on April 30, 1982, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet:

Seventeenth Revised Sheet No. 3-A,
superseding
Sixteenth Revised Sheet No. 3-A

The proposed changes would increase the monthly charges for purchased gas to Colorado Interstate Gas Company, Western's sole jurisdictional customer, pursuant to the provisions of Section 18 of Western's FPC Gas Tariff, Original Volume No. 1.

The proposed effective date of the above tariff sheet is June 1, 1982.

Copies of this filing have been served upon Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13867 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 4538-000]

Wisconsin Public Power Incorporated
System; Surrender of Preliminary
Permit

May 17, 1982.

Take notice that Wisconsin Public Power Incorporated System (WPPIS), Permittee for the Mississippi River Lock

and Dam No. 6, Project No. 4538, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 4538 was issued on September 3, 1981, and would have expired on November 1, 1983. The project would have been located on the Mississippi River in Winona County, Minnesota.

WPPIS feasibility studies indicated that the projects limited head and flow characteristics were not sufficient to develop hydroelectric power. In addition, WPPIS concluded that the expenses to conduct a full scale feasibility analysis are not supported by the potential development of the site.

WPPIS filed its request for Project No. 4538 on April 26, 1982, and the surrender of Project No. 4538 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13846 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 1968-004]

Wisconsin Public Service Corp.;
Application for Exemption for Small
Hydroelectric Power Project Under 5
MW Capacity

May 18, 1982.

Take notice that on April 1, 1982, Wisconsin Public Service Corporation (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 1968) would be located on the Wisconsin River near the town of Crescent, in Oneida County, Wisconsin. Correspondence with the Applicant should be directed to: Mr. D. A. Bollom, Treasurer, Wisconsin Public Service Corporation, 700 North Adams Street, Green Bay, Wisconsin 54301.

Project Description—The proposed project would consist of: (1) an existing reservoir with a surface area of 640 acres and a storage capacity of 260 acre-feet; (2) two existing powerhouses containing a total of 970 kW and two proposed units rated at 455 kW and 440 kW, respectively, to be added; (3) an existing reinforced concrete dam approximately 22 feet high; and (4) appurtenant facilities.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or

license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Wisconsin Department of Natural Resources are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 8, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(d) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (b) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a

party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 8, 1982.

Filing and Service of Responsive documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13863 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6156-000]

**Milton M. Zack and Morris M. Zack;
Application for Preliminary Permit**

May 18, 1982.

Take notice that Milton M. Zack and Morris M. Zack (Applicant) filed on April 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 6156 to be known as the Pellisier Creek/Middle Canyon/Birch Creek Hydroelectric Project located on Pellisier, Middle Canyon and Birch Creeks near Bishop in Mono County, California. The proposed project would affect U.S. lands administered by the U.S. Forest Service and Bureau of Land Management. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Milton M. Zack, 3530 Brookside Drive, Bishop, California 93514.

Project Description—The proposed project would consist of: (1) three existing collection basins, one each on Pellisier, Middle Canyon and Birch Creeks; (2) a 10-inch diameter, 4,000-foot long penstock conveying water from Pellisier Creek; (3) a 10-inch diameter, 2,600-foot long penstock conveying

water from Middle Canyon Creek; (4) a 12-inch diameter, 5,200-foot long penstock conveying water from Birch Creek; (5) a 16-inch diameter, 7,500-foot long penstock conveying the combined flow of all three creeks to the powerhouse; (6) a powerhouse with a total installed capacity of 420-kW; and (7) a 5,000-foot long, 12-kV transmission line interconnecting with an existing SCE transmission line. The Applicant estimates that the average annual energy output would be 3.65 million kWh.

Purposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant is seeking issuance of a preliminary permit for 24 months during which it would conduct engineering, environmental and economic studies and prepare an FERC license application. The cost of conducting these studies are estimated by the Applicant to be \$35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 2, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 2, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 1, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the

requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13847 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6120-000]

**McDowell Forest Products, Inc.,
Application for Exemption for Small
Hydroelectric Power Project Under 5
MW Capacity**

May 18, 1982.

Take notice that on March 23, 1982, the McDowell Forest Products, Inc. (Applicant) filed an application under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6120) would be located on Camp Creek near the town of Pulga in Butte County, California. The proposed project would affect the United States lands within the Plumas National Forest. Correspondence with the Applicant should be directed to: Mr. Bruce McDowell, McDowell Forest

Products, Inc., P.O. Box 131,
Taylorsville, California 95983.

Project Description—The proposed project would consist of: (1) a 4-foot high diversion structure; (2) 34-inch diameter intake pipe diverting water from a natural pool of water at the base of a 40-foot high waterfall; (3) a fish screen; (4) a 34-inch diameter, 1,200-foot long penstock; (5) a powerhouse with a total installed capacity of 990 kW; (6) a concrete tailrace; and (7) a 600-foot long, 12-kV transmission line interconnecting with an existing PG&E transmission line.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project. The Applicant estimates that the average annual output would be 4,778 MWh.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 9, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license

application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13829 Filed 5-20-82; 8:45am]
BILLING CODE 6717-01-M

[Project No. 6180-000]

**Lawrence J. McMurtrey; Application
for Preliminary Permit**

May 17, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on April 7, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6180 to be known as the Sibley

Creek Project located on Sibley Creek and East Fork, within Snoqualmie-Mt. Baker in Skagit County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122 196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) 36-inch wide concrete intake structures placed in the streambeds at elevation 2,900 feet; (2) diversion pipelines totaling 6,000 feet long; (3) a powerhouse at 1,340 feet containing a turbine generator with 2.98 MW capacity and 13.08 GWh annual energy production; and (4) a transmission line 7 miles long. The potential market for project-generated energy includes Puget Sound Power and Light, the Bonneville Power Administration and the Intalco Aluminum Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is \$40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 26, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 24, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit

comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13830 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP82-199-002 and CP82-199-003]

National Fuel Gas Supply Corp., Amendment

May 14, 1982.

Take notice that on April 30, 1982, National Fuel Gas Supply Corporation (Applicant), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP82-199-002 and on May 6, 1982, Applicant filed in Docket No. CP82-199-003 amendments to its pending application filed February 11, 1982, in Docket No. CP82-199-000 pursuant to

section 7(c) of the Natural Gas Act so as to reflect increased sale of natural gas, all as more fully set forth in the amendments which are on file with the Commission and open to public inspection.

Applicant asserts that in addition to interruptible gas sales already proposed it proposes to sell up to 800,000 Mcf of gas to The Connecticut Gas Company, up to 1,200,000 Mcf of gas to Orange and Rockland Utilities, Inc., and up to 40,000 Mcf of gas to The Berkshire Gas Company all under Applicant's Rate Schedule I-1. It is stated that the subject gas would be delivered for storage by Penn York Energy Corporation during the summer injection period ending no later than October 31, 1982.

Any person desiring to be heard or to make any protest with reference to said amendments should on or before June 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13831 Filed 5-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-284-000]

Northwest Pipeline Corp.; Application

May 13, 1982.

Take notice that on April 15, 1982, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82-284-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a new sales delivery point for Northwest Natural Gas Company (Northwest Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate one tap on its 12-inch O.D. Eugene Lateral in Marion County,

Oregon, to be used for the sale and delivery of natural gas to Northwest Natural. Applicant submits that the maximum daily delivery volume requirements would be 100 Mcf with an estimated annual requirement of 7,590 Mcf.

It is stated that the proposed tap would be used to supply gas service to the Cascade High School, Marion County, Oregon. Applicant explains that Northwest Natural would install metering and regulating facilities along with any additional facilities necessary to effectuate the delivery of natural gas from the Cascade High School tap. It is asserted that the volumes of natural gas to be sold and delivered to the Cascade High School tap would be taken from volumes of natural gas which Applicant has heretofore been authorized to sell and deliver to Northwest Natural under Applicant's existing Rate Schedule ODL-1. Applicant submits that there would be no increase in the daily contract quantity of natural gas which Applicant is authorized to sell and deliver to Northwest Natural.

The cost of constructing the proposed facilities is estimated to be \$5,800. Applicant states that northwest Natural would reimburse Applicant for all out-of-pocket costs incurred in constructing the tap, excluding labor.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the public certificate is required by the public

convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13878 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP82-73-000]

Ohio River Pipeline Corp.; Proposed Changes

May 13, 1982.

Take notice that Ohio River Pipeline Corporation (Ohio River) on April 29, 1982, tendered for filing proposed changes in the revised tariff sheets as listed on the attached Appendix A.

These revised tariff sheets implement a general rate increase to Ohio River's jurisdictional sales of \$3.2 million annually based on a test year ending December 31, 1981, adjusted for charges known and measurable to September 30, 1982.

Ohio River states that the increased rates are necessitated by increased costs at all levels including operating costs, increased capital costs, and a 15.54% rate of return. The proposed effective date of the tendered sheets is June 1, 1982.

Copies of this filing were served on Ohio River's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13879 Filed 5-20-82; 8:45 a.m.]
BILLING CODE 6717-01-M

[Docket No. RP82-78-000]

Ringwood Gathering Co.; Proposed Changes in FERC Gas Tariff

May 13, 1982.

Take notice that Ringwood Gathering Company (formerly Oklahoma Natural Gas Gathering Corporation), on April 30, 1982, tendered for filing proposed changes in its FERC Tariff, Original Volume No. 1, consisting of the following tariff sheets:

Twenty-Seventh Revised Sheet PGA-1
Eighth Revised Sheet No. 4
Seventh Revised Sheet No. 59

The proposed changes would increase the level of its jurisdictional rates by .0468 cents per Mcf, which would provide an increase in revenues from jurisdictional sales of \$567,030 based on the 12-month period ending December 31, 1981, as adjusted. Ringwood Gathering Company states that this increase amounts to a 2.3 percent increase over revenues which would result from annualized effective rates that are in effect at this time.

Ringwood Gathering Company states that this filing is being made in compliance with § 154.63(b)(3) of the Commission's regulations. Ringwood Gathering Company states that increased cost of service (labor, supplies, expenses, and construction) have caused its earned rate of return to decline to 6.80 percent after adjustments. Thus, the company requests waiver of the five-month suspension period because it only serves to further erode that return and increase the risk to the company's stockholders.

Ringwood Gathering Company proposes an effective date of June 1, 1982, and states that copies of this filing were served on each of its customers and affected State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13880 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP81-28-001]

Transco Gas Supply Co., Tariff Filing

May 13, 1982.

Take notice that Transco Gas Supply Company (Gasco) on April 30, 1982, tendered for filing Fifth Revised Sheet No. 106 to its FERC Gas Tariff, Original Volume No. 2. Gasco states that said revised tariff sheet provides for a change in the percentage applicable to return and income taxes for Gasco's rate base from 17.91% to 15.26% and was filed to comply with Section 1B of Appendix A of Gasco's FERC Gas Tariff which requires that Gasco's rate of return and income tax factor be the same as that of its affiliate, Transcontinental Gas Pipe Line Corporation (Transco). In that regard, Gasco states that the revised rate is in accordance with Article II, Paragraph D of Transco's Agreement as to Rates in Docket No. RP80-117 approved by the Commission on April 12, 1982, and reflects the same percentage rate accepted by the Commission in docket No. RP78-24 effective January 1, 1979. Gasco states that it will commence collecting effective April 1, 1982 rates based upon the reduced factor, and upon acceptance of the revised tariff sheet, will make the necessary refunds to Transco for amounts collected in excess of the return and income tax factor of 15.26% when applied to Gasco's rate base for the period January 1, 1981 through March 31, 1982.

Gasco states that copies of the filing have been mailed to Transco and for information purposes to each of Transco's jurisdictional customers and interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13881 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP82-77-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

May 13, 1982.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on April 30, 1982, tendered for filing First Revised Tariff Sheet No. 214 of Second Revised Volume No. 1 of its FERC Gas Tariff. The proposed effective date of the revised tariff sheet is June 1, 1982.

Transco states that the purpose of this filing is to reflect a change in the interest rate on late payments and overcharges from the present 5% per annum contained in section 7. (d) and (e) of the General Terms and Conditions to the prime interest rate in effect from time to time of the Citibank, N. A. or its successor. Such change is designed to bring Transco and its customers into accord with current financial conditions by providing realistic interest rates to be charged on late payments and paid on overcharges and to remove any incentive which may currently exist to pay late or overcharge because of an inadequate interest rate.

The Company states that copies of the filing are being mailed to each of its customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10).

All such petitions or protests should be filed on or before May 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13882 Filed 5-20-82; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-4-FRL-2128-8]

Approval of PSD Permit to the Kentucky Utilities Company

Notice is hereby given that on April 15, 1982, the Environmental Protection Agency issued a Prevention of Significant Deterioration permit PSD-KY-137 to the Kentucky Utilities Company for approval to construct two 650 megawatt electric power generating units near Hawesville, Kentucky.

On October 12, 1979, the Kentucky Division of Air Pollution Control made a Preliminary Determination that the proposed source could be approved with conditions. Many citizens, after having reviewed the document, requested that a public hearing be held to discuss the Determination and on July 22, 1980, a public hearing was held by EPA in Lewisport, Hancock County, Kentucky.

After having reviewed all of the materials relative to the Kentucky Utilities application, EPA issued its Final Determination on April 15, 1982, to grant Kentucky Utilities authority to construct subject to conditions. All comments received, both prior to and subsequent to the public hearing, pertaining to the Commonwealth's Preliminary Determination, Kentucky Utilities PSD application, the Clean Air Act, and the PSD regulations were Addressed in EPA's Final Determination. The conditions of the permit are as follows:

This authority to construct does not relieve Kentucky Utilities of its responsibility to comply with all other applicable Federal, state, and local requirements. Furthermore, this Federal permit to construct has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR § 52.21) subject to certain General Conditions (Numbers 1 through 10) as well as the Specific Conditions listed below:

1. The steam generating units (1 and 2) will be constructed and operated in accordance with the application, including a 650 megawatt generating capacity and the 6650 MMBtu/hr heat input rate for each steam generating unit.

2. Emissions will not exceed the allowable limits specified in the following table of allowable emissions for SO₂, TSP, NO_x and CO. In addition, the SO₂ scrubber efficiency must be maintained at a minimum of 91% on a thirty-day rolling average.

3. Compliance with the boiler allowable emission limits required in

Condition 2 will be demonstrated with the performance tests conducted in accordance with the provisions of 40 CFR 60.46a, 48a, and 49a, including applicable tests methods, sampling periods, etc. Compliance with the opacity limits on the limestone and fly ash handling systems will be determined with EPA reference Method 9 (Appendix A, 40 CFR Part 60). These latter two systems are exempted from mass emission rate compliance tests unless opacity limits are exceeded or the administrator (or his representative) otherwise determines that such performance testing is required.

4. The applicant will install and maintain continuous monitoring and recording opacity meter, sulfur dioxide and nitrogen oxide analyzers, oxygen and/or CO₂ analyzer in accordance with the provisions of 40 CFR 60.47a.

5. The following requirements will be met to minimize fugitive emissions of particulate matter from the coal storage and handling facilities, the limestone storage and handling facilities, haul roads, and general plant operations:

a. All conveyors and transfer points in the coal handling system will be enclosed and equipped with dust collection equipment. Dust pickups will be vented to bag-type dust collectors of at least 99% collection efficiency, and maximum outlet grain loading of .01 gr/dscf.

b. The active coal storage and crushing facilities will be totally enclosed and vented to bag-type dust collectors of at least 99 percent collection efficiency, and maximum outlet grain loading of .01 gr/dscf.

c. The inactive coal storage pile will be shaped, compacted, and oriented to minimize wind erosion.

d. Wet suppression will be applied to the inactive coal pile, limestone storage pile and reclaim and stock out areas during dry periods and as often as the piles and these areas are disturbed to minimize emissions.

e. The limestone and lime handling equipment will be provided with a dust

collection system designed to prevent dust emissions at all dust producing points. Dust pickups used in the dust collection system will be vented to bag-type dust collectors of a 99 percent collection efficiency.

f. The fly ash handling system (including transfer and silo storage) will be maintained at negative pressures and vented to bag-type dust collectors.

g. All unpaved access and haul roads will be oiled or watered during dry periods to reduce fugitive dust emissions.

6. Within 90 days of commencement of operations, the applicant will determine and submit to EPA the pH level in the scrubber effluent that will ensure 91% removal of the SO₂ in the flue gas. Moreover, the applicant is required to operate a continuous pH meter equipped with an upset alarm, to ensure that the pH level of the scrubber effluent does not fall below this level. The minimum value pH may be revised at a later date provided notification to EPA is made demonstrating the minimum percent removal will be achieved on a continuous basis.

7. The applicant will perform post-construction continuous ambient air monitoring of sulfur dioxide and TSP in accordance with EPA Region IV policies and procedures and the guidance offered in "Ambient Monitoring Guidelines for Prevention of Significant Deterioration (PSD)", EPA-450/4-80-012, November 1980). Such monitoring will be continued for a period of at least one year and until determined by the Administrator (or his representative) that the effects of the construction on ambient air quality have been quantified.

8. The applicant must submit to EPA Region IV's Air Facilities Branch within five (5) working days after its becomes available, copies of all technical data pertaining to the selected control devices, including formal bids from vendors and guaranteed efficiencies or emission rates. Although the type of control equipment described in the

application has been determined by EPA to be adequate, EPA may, upon review of the data, disapprove the application if EPA determines the selected devices to be inadequate to meet the emission limits specified in this conditional approval.

9. The total coal throughput (annual volume) for each unit shall not exceed 2,776,920 tons.

10. The auxiliary boiler emissions shall not at any time exceed:

.52 lb/MMBtu for SO₂.

.1 lb/MMBtu for NO_x.

.03 lb/MMBtu for TSP.

11. The auxiliary boiler will only be used to supplement startup steam requirements.

12. The applicant will comply with all requirements and provisions of the New Source Performance Standards for electric utility steam generating units (40 CFR 60 Part Da, promulgated June 11, 1979).

13. The applicant will not use the existing railroad line at the plant site, for coal supply or unloading.

This PSD permit may now be considered final Agency action reviewable under 40 CFR 124.19 (Consolidated Permit Regulations). Within 30 days after issuance of this final PSD permit decision, any person who filed comments on the draft permit or participated in the public hearing may petition the Administrator to review any condition of the permit decision.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency,
Region IV, Air Facilities Branch, 345
Courtland Street, NE., Atlanta,
Georgia 30365.

Kentucky Division of Air Pollution
Control, Bureau of Environmental
Protection, Fort Boone Plaza, 18 Reilly
Road, Frankfort, Kentucky 40601.

Dated: April 15, 1982.

Charles R. Jeter,
Regional Administrator.

TABLE OF ALLOWABLE EMISSION LIMITS

| Facility | SO ₂ | | NO _x | | TSP | | CO | | Opacity (percent) |
|---|-----------------------|----------------|-----------------------|----------------|-----------------------|----------------|-----------------------|----------------|-------------------|
| | Pound per million Btu | Pound per hour | Pound per million Btu | Pound per hour | Pound per million Btu | Pound per hour | Pound per million Btu | Pound per hour | |
| Units 1 and 2 30-day rolling average..... | 0.54 | 3,600 | 0.6 | 3,990 | | | | | |
| Continuous limit..... | | | | | 0.03 | 199.5 | 0.048 | 319 | 20 |
| Fugitive emissions..... | | | | | | 13.6 | | | 10 |

¹ Total fugitive emissions calculated on an annual basis.

[ER-FRL-2131-5]**Availability of Environmental Impact Statement Filed May 10 Through May 14, 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. 820302, Draft, COE, IN, Little Calumet River Multipurpose Project, Lake County, Due: July 6, 1982
 EIS No. 820285, Draft, COE, LA, Louisiana Coastal Area, Freshwater Diversion for Saltwater Reduction, Due: July 6, 1982
 EIS No. 820304, Final, COE, CA, Bodega Bay Navigational Improvements, Sonoma County, Due: June 21, 1982
 EIS No. 820306, Final, COE, CA, Richmond Harbor Deep-Draft Navigation Improvements, Contra Coasta Co., Due: June 21, 1982
 EIS No. 820305, Final, COE, LA, Red River Backwater Flood Control, Sicily Island, Due: June 21, 1982
 EIS No. 820289, Final, COE, NY, Gowanus Creek Channel Navigation Improvement, King County, Due: June 21, 1982
 EIS No. 820303, Final, COE, NY, Conesus Lake Flood Damage Reduction Plan, Livingston County, Due: June 21, 1982
 EIS No. 820282, Final, COE, RI, Big River Reservoir Water Resources Development, Kent County, Due: June 21, 1982
 EIS No. 820284, DSuppl, COE, MN, Minnesota River, Flood Control at Chaska, Carver County, Due: July 6, 1982

Department of Energy:

- EIS No. 820300, Draft, DOE, WA, PUREX/Uranium Oxide Facilities, Operation, Hanford, Benton, County, Due: July 6, 1982
 EIS No. 820308, Final, DOE, PA, Shippingport Atomic Power Station, Decommissioning, Beaver County, Due: June 21, 1982

Department of Interior:

- EIS No. 820301, Draft, BLM, ID, Challis Planning Unit (MFP), Wilderness Designation, Custer County, Due: August 2, 1982
 EIS No. 820286, Draft, BLM, MT, Dillion Resource Area, Wilderness Designation, Beaverhead and Madison, Due: July 26, 1982
 EIS No. 820297, Draft, BLM, MT, Missouri Breaks Area, Wilderness Designation, Due: July 26, 1982
 EIS No. 820293, Draft, BLM, CA, Sierra Planning Area Livestock Grazing Management Plan, Due: July 6, 1982
 EIS No. 820290, Final, BLM, MT, Big Dry Resource Area Vegetation Allocation and Grazing Management, Due: June 21, 1982
 EIS No. 820298, Draft, NSP, UT, Capitol Reef National Park General Management Plan, Due: July 6, 1982

Department of Transportation:

- EIS No. 820287, Draft, FHW, IN, I-164 Improvement, IN-66 to U.S. 41, Evansville, Vanderburg and Warrick, Due: July 6, 1982

EIS No. 820288, Draft, FHW, NY, NY-55 Relocation/Illion and Mohawk Bypass, Herkimer County, Due: July 6, 1982

EIS No. 820299, Draft, FHW, WA, 1-5/220th Street Interchange Improvement, Snohomish County, Due: July 6, 1982

Department of Housing and Urban Development:

- EIS No. 820294, Draft, HUD, CA, Victoria Community Plan, Mortgage Insurance, San Bernardino County, Due: July 6, 1982
 EIS No. 820292, Final, HUD, CT, Summitwood Planned Community, Mortgage Insurance, Meriden, Due: June 21, 1982
 EIS No. 820307, Final, HUD, NC, Kildaire Farms Development, Mortgage Insurance, Wake County, Due: June 28, 1982

Nuclear Regulatory Commission:

- EIS No. 820296, Draft, NRC, IL, Rare Earths Facility, Decommissioning, License, Du Page County, Due: July 6, 1982
 EIS No. 820295, Draft, NRC, NH, Seabrook Station Units 1 and 2, Startup and Operation, Licenses, Due: July 6, 1982

Department of Agriculture:

- EIS No. 820291, Final, SCS, CA, Llagas Creek Watershed Flood Control Project, Santa Clara County, Due: June 21, 1982
 EIS No. 820283, Final, SCS, SEV, CO, UT, Lower Gunnison/Uintah Basin Units, Water Quality, Due: June 21, 1982

Amended Notice:

- EIS No. 820066, Draft, AFS, NM, Santa Fe National Forest Land and Resource Management Plan. *Published FR 4-19-82—Review Extended, Due: June 1, 1982

Dated: May 19, 1982.

Louis J. Cordia,

Acting Director, Office of Federal Activities.

[FR Doc. 82-14063 Filed 5-20-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140010; TSH FRL 2129-1]**Office of Management and Budget; Disclosure of Confidential Business Information**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Office of Management and Budget (OMB) has requested that EPA provide a designated OMB employee access to confidential business information submitted to EPA under the Toxic Substances Control Act (TSCA) and the Federal Insecticide, fungicide, and Rodenticide Act (FIFRA). OMB has informed EPA that its employee requires access in connection with OMB's role in reviewing EPA's budget.

DATE: Access to confidential business information will be provided to the OMB employee no sooner than June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director,

Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-509, 401 M St. SW., Washington, D.C. 20460, Toll-free: (800-424-9065), In Washington D.C.: (554-1404), Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB), Executive Office of the President, is responsible for reviewing EPA's budget. In connection with that role, the Environment Branch of OMB requires a thorough understanding of EPA's programs operating under TSCA and FIFRA. OMB has requested that a designated employee of its Environment Branch be granted access to confidential business information submitted to EPA under TSCA and FIFRA so that that employee may from time to time attend meetings and review background materials which involve such confidential information.

EPA will provide the designated OMB employee access to confidential business information in accordance with 40 CFR 2.209(c), which applies to information submitted under TSCA by 40 CFR 2.306(h) and under FIFRA by 40 CFR 2.307(h).

As required by 40 CFR 2.209(c), this is a notice to inform submitters of TSCA and FIFRA information that OMB's employee will have access to confidential business information no sooner than ten days after publication of this notice.

The designated OMB employee will be cleared for access to confidential business information in accordance with the provisions of the TSCA and FIFRA confidential business information security manuals and required to sign confidentiality agreements. Confidential business information will be reviewed by the OMB employee only at EPA, and so such information will be permitted to be removed from EPA's premises. OMB and its employee will be notified that this confidential information was acquired by EPA under authority of TSCA and FIFRA and that any knowing disclosure of the information may subject the officers and employees of OMB to the penalties in section 14(d) of TSCA and section 10(f) of FIFRA.

Dated: May 12, 1982.

John A. Todhunter,
Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-13921 Filed 5-20-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51414; TSH-FRL 2131-1]

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 seventeen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 82-340, 82-341, 82-342, 82-343 and 82-344, August 5, 1982.

PMN 82-345, August 8, 1982.

PMN 82-346, 82-347 and 82-348, August 9, 1982.

PMN 82-349, 82-350, 82-351 and 82-352, August 10, 1982.

PMN 82-353, 82-354, 82-355 and 82-356, August 11, 1982.

Written comments by:

PMN 82-340, 82-341, 82-343 and 82-344, July 4, 1982.

PMN 82-345, July 9, 1982.

PMN 82-346, 82-347 and 82-348, July 10, 1982.

PMN 82-349, 82-350, 82-351 and, 82-352, July 11, 1982.

PMN 82-353, 82-354, 82-355 and 82-356, July 12, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51414]" 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: The following notices contain information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the public reading room E-107.

PMN 82-340

Importer. Confidential.

Chemical. (G) Complex quaternary ammonium chloride.

Use/Import. (S) Dyeing aid for textiles. Import range. Confidential.

Toxicity Data. Acute oral: 1.3 g/kg; Skin: Moderate irritant; Eye: Severe irritant;

Exposure. Import and disposal: a total of 64 workers, up to 3 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. 1,000-10,000 kg/yr released to water. Disposal by publicly owned treatment works (POTW).

PMN 82-341

Manufacturer. Confidential.

Chemical. (G) Unsaturated hydrocarbons modified rosin.

Use/Production. (S) Industrial hot melt and pressure-sensitive adhesives. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, 2 workers, 1 hr/da, 110 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land 24 hrs/da, 110 da/yr. Disposal by biological treatment system.

PMN 82-342

Manufacturer. Confidential.

Chemical. (G) Unsaturated hydrocarbons modified rosin.

Use/Production. (S) Industrial hot melt and pressure-sensitive adhesives. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, 2 workers, 1 hr/da, 110 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land 24 hrs/da, 110 da/yr. Disposal by biological treatment system.

PMN 82-343

Manufacturer. Confidential.

Chemical. (G) Unsaturated hydrocarbons modified rosin.

Use/Production. (S) Industrial hot melt and pressure-sensitive adhesives. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, 2 workers, 1 hr/da, 110 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land 24 hrs/da, 110 da/yr. Disposal by biological treatment system.

PMN 82-344

Manufacturer. Confidential.

Chemical. (G) Unsaturated hydrocarbons modified rosin.

Use/Production. (S) Industrial hot melt and pressure-sensitive adhesives. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, 2 workers, 1 hr/da, 110 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land 24 hrs/da, 110 da/yr. Disposal by biological treatment system.

PMN 82-345

Manufacturer. Confidential.

Chemical. (G) Polyhalo alkoxyaryl nitrile.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 46.8 mg/kg; Acute dermal: >0.5 ml/kg; Skin: Negative; Eye: Slight; Inhalation: > 8.34 mg/l; Ames Test: Negative.

Exposure. Manufacture: dermal and inhalation, 2 workers, 24 hrs/da, 14 da/yr.

Environmental Release/Disposal. Negligible. Disposal by incineration.

PMN 82-346

Manufacturer. Confidential.

Chemical. (G) Reaction product of a substituted benzene, formaldehyde and inorganic acid.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 82-347

Manufacturer. Confidential.

Chemical. (G) Polyurethane of a diisocyanate and a substituted alkanediol.

Use/Production. (G) Open use. Prod. range: 1,000-100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal and eye, a total of 93 workers, up to 6 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10-1,000 kg/yr to land. Disposal by incineration, landfill or sold as fuel.

PMN 82-348

Manufacturer. Spencer Kellogg Division of Textron Inc.

Chemical. (G) Urea/carbamate elastomer.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. Skin: Mild irritant; Eye: Irritant; Inhalation: No special hazards.

Exposure. Manufacture: dermal, 6 workers, 6 hrs/da, 20 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration and approved landfill.

PMN 82-349

Manufacturer. Confidential.
Chemical. (G) Polycyclic sulfonic acid salt.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, 6 workers, 8 hrs/da, 15 da/yr.

Environmental Release/Disposal. No release.

PMN 82-350

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Titanium (4) mixed alcohol complex.

Use/Production. (G) Energy production industry additive. Prod. range: Confidential.

Toxicity Data. Acute oral: 3,310 mg/kg; Skin: Mild irritant; Eye: Severe irritant.

Exposure. Dermal, inhalation and ingestion, a total of 2 workers, up to 8 hrs/da, up to 8 wks/yr.

Environmental Release/Disposal. Minimal. Disposal by incineration.

PMN 82-351

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Titanium (4) mixed alcohol complex.

Use/Production. (G) Energy production industry additive. Prod. range: Confidential.

Toxicity Data. Acute oral: 9,437 mg/kg; Skin: Slight irritant; Eye: Severe irritant.

Exposure. Dermal, inhalation and ingestion, a total of 2 workers, up to 8 hrs/da, up to 20 wks/yr.

Environmental Release/Disposal. Minimal. Disposal by incineration.

PMN 82-352

Importer. Confidential.

Chemical. (G) Naphthalenedisulfonic acid, [[aminosulfohydroxy naphthalenyl]azo]-, trisodium salt.

Use-Import. (S) Textile use. Import range: 5,000-20,000 kg/yr.

Toxicity Data. Acute oral: > 5,000 mg/kg; Skin: Slight irritant; Eye: Minimal irritant; TL₅₀ 96 hrs (zebra fish): <

> 1,000 mg/l; BOD₅: Og/gO₂: COD: 1.06 g/gO₂. Treatment plant bacterial inhibition: No inhibition at 300 mg/l.

Exposure. Import: a total of 200-400 workers, 720 manhrs/yr.

Environmental Release/Disposal. Less than 200 mg/l released as a dilute aqueous solution. Disposal by water treatment system and National Pollution Disposal Elimination System (NPDES).

PMN 82-353

Manufacturer. Confidential.

Chemical. (G) substituted phenylpyrimidine.

Use/Production. (G) Site-limited intermediate. Prod. range: 0-30 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, 4 workers, 8 hrs/da, 2 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-354

Manufacturer. Confidential.

Chemical. (G) Substituted phenylpyrimidine.

Use/Production. (G) Site-limited intermediate. Prod. range: 0-30 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, 4 workers, 8 hrs/da, 2 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-355

Manufacturer. Confidential.

Chemical. (G) Substituted phenylpyrimidin bicyclic azo heterocyclic merocyanine.

Use/Production. (G) Enclosed use. Prod. range: 0-30 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, 8 workers, 8 hrs/da, 6 da/yr. Use: Negligible, dermal contact.

Environmental Release/Disposal. Less than 30 kg/yr released to land. Disposal by incineration and landfill.

PMN 82-356

Manufacturer. Confidential.

Chemical. (G) Polymer of 1,4-benzenedicarboxylic acid dimethyl ester; dihydroxyalkane; 1,6-hexanedio; alpha hydro-omega hydroxy poly (oxy-1,4-butanediyl).

Use/Production. (G) Laminated panel fabrication. Prod. range: 4,500-33,750 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: 10 workers, 8 hrs/da, 30 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

Dated: May 17, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-13927 Filed 5-20-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 82-274, File No. BRH-810601 VT; and BC Docket No. 82-275, File No. BPH-810804 AB]

Berryville Media Group and Bentom Enterprises, Inc.; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: April 29, 1982.

Released: May 18, 1982.

In re applications of Berryville Media Group, Has: 105.5 MHz, 3.0 Kw, Channel 288, BC Docket No. 82-274. File No. BRH-810601 VT, For renewal of license of station WWOO(FM), Berryville, Virginia; and Bentom Enterprises, Inc., Berryville, Virginia Req: 105.5 MHz, 3.0 Kw, Channel 288, BC Docket No. 82-275, File No. BPH-810804 AB; for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the application of Berryville Media Group (BMG) for renewal of license for Station WWOO(FM), Berryville, Virginia, and the application of Bentom Enterprises, Inc. (Bentom) for a construction permit for an FM station in Berryville, Virginia on the frequency occupied by BMG.¹

2. Bentom requests that it be permitted to locate its main studio outside the city limits of Berryville pursuant to § 73.1125(a)(3) of the Commission's Rules.² In support of its

¹ On September 1, 1981, BMG and Apple Valley Broadcasters, Inc. (Apple Valley) filed an application to assign the license of Station WWOO from BMG to Apple Valley. On October 15, 1981, Bentom filed a petition to deny the assignment application. Subsequently, the assignment application was dismissed pursuant to the request of the parties. Since the petition to deny the assignment application makes allegations concerning the licensee-seller, it is, in essence, a pre-designation petition to specify issues. Because such petitions are no longer permitted, it will be dismissed. *Processing of Contested Broadcasting Application*, 72 FCC 2d 202 (1979). Bentom, however, will have an opportunity to raise the issues contained in the petition post designation pursuant to § 1.229 of the Commission's Rules.

² Section 73.1125(a) states in pertinent part: "(a) Each * * * FM * * * broadcast station shall maintain a main studio in the station's principal community which it is licensed to serve, except:

(3) * * * FM * * * stations, when good cause exists for locating the main studio outside the principal community to be served and that to do so would be consistent with operation of the station in the public interest.

request, Bentom states that its proposal would locate the main studio at the site of its proposed transmitter and that such co-location would result in operating cost savings which could then be spent on programming and beautification. In addition, Bentom states that the site is 2.9 miles east-northeast of Berryville and is easily accessible from three directions. Finally, Bentom claims that land for a studio/transmitter site is virtually unobtainable within the city limits of Berryville, and that even if it were obtainable, it would be unaffordable. In view of the above, we believe that Bentom has demonstrated good cause for locating its main studio outside of Berryville and that operation thereof at the proposed site would be consistent with the public interest. Accordingly, if the Bentom application is granted, it will be permitted to locate its main studio outside of the city limits of Berryville at the site specified in its application.

3. Review of the applications indicates that both applicants are qualified to operate as proposed. However, because the applications are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

4. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

5. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order within 20 days of the mailing of this Order pursuant to § 1.221(c) of the Commission's Rules.

6. It is further ordered, That the applicants herein shall give notice of the hearing pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, either individually or jointly, if feasible and consistent with the Rules, within the time and in the manner prescribed in Rule 73.3594, and shall advise the Commission of the

publication of such notice as required by § 73.3594(g) of the Rules.

7. It is further ordered, That the Secretary of the Commission shall send, by *Certified Mail—Return Receipt Requested*, a copy of this *Memorandum Opinion and Order* to each of the parties named herein.

Laurence E. Harris,
Chief, Broadcast Bureau.

By: Roy J. Stewart,
Chief, Renewal and Transfer Division.

[FR Doc. 82-13959 Filed 5-20-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-259, File No. BPCT-790928KI; BC Docket No. 82-260, File No. BPCT-800516KO]

Focus Television Co., A Joint Venture and Community Action Communications, Inc.; Applications For Construction Permit For a New Television Station; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: May 10, 1982.

Released: May 18, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Focus Television Co., A Joint Venture, (Focus) Kannapolis, North Carolina and Community Action Communications, Inc. (Community), Kannapolis, North Carolina, for a new commercial television station to operate on Channel 674, Kannapolis, North Carolina; and a petition to deny filed by WCCB-TV, Inc., licensee of WCCB-TV (WCCB) Channel 18, Charlotte, North Carolina.

2. WCCB claims standing as a party in interest under Section 309(d) of the Communications Act of 1934, as amended, 47 U.S.C. 309(d), on the grounds that because Focus would be within the proposed principal city grade contour of WCCB-TV, the two stations would compete for audience and revenues and operation as proposed would cause economic injury to WCCB. We find that WCCB has standing. *Federal Communications Commission v. Sanders Brothers Radio Station*, 309 U.S. 470, 60 S. Ct. 693, 9 RR 2008 (1940).

Background

3. On September 28, 1979, Cabarrus Television Corporation (Cabarrus),¹

¹The application of Cabarrus also contemplated operating subscription television (STV) over its proposed facilities. However, the STV application (BSTV-790928KI) will not be consolidated for hearing with the television application. This is in

filed its application seeking a construction permit for a new commercial television station to operate on Channel 64, in Kannapolis, North Carolina, and sought subscription television authority (STV) on that channel. Subsequently, on May 16, 1980, the "A" cut-off date, a) WCCB filed a Petition to Deny against Cabarrus' application, b) Focus Broadcasting of Kannapolis, Inc. (FBK) and Community filed mutually exclusive applications to operate on Channel 64 and Cabarrus amended its application to reflect the transfer of control of Cabarrus to Kannapolis Broadcasting Company (KBC). Thereafter, Cabarrus and KBC became joint venturers in Kannapolis Television Company, a Joint Venture (Kannapolis TV). On September 8, 1980, Kannapolis TV and FBK submitted a settlement agreement for Commission approval. Under the proposed agreement, Kannapolis TV's interest would be 70% and FBK's interest would be 30%. The resulting joint venture would be a merged applicant, known as Focus, and the existing Kannapolis TV and FBK applications would be dismissed. Focus would adopt portions of both the FBK and Kannapolis TV applications and adopt FBK's file number.* Additionally, FBK and Kannapolis TV would form Carolina Subscription Television Corporation (CTV) to be an STV franchisee on Channel 64. On September 23, 1980, WCCB filed a Petition to Deny Focus' application.²

Preliminary Matters

4. Focus alleges that WCCB's pleading was not timely, and therefore does not constitute a petition to deny. Focus notes that the "B" cut-off for FBK was September 8, 1980. On that date, a minor amendment (See § 73.3572(b) of the Commission's Rules), reporting the formation of Focus, was also filed. Therefore, Focus asserts that the deadline for WCCB's petition to deny

keeping with the Commission's policy with regard to mutually exclusive applications for a new station where one contemplates STV operation and the other a conventional facility as stated in Paragraph 15, *Second Report and Order*, FCC 81-13, adopted January 8, 1981.

²On that same date, WCCB filed an Opposition to Joint Petition for Approval of Agreement. Since WCCB raises similar issues in its May 16, 1980 Petition to Deny against Cabarrus and its September 23, 1980 Petition to Deny and Opposition to Joint Petition filed against Focus Television Co. (formerly Cabarrus, KBC and FBK), these and related pleadings will be considered herein jointly, unless otherwise indicated.

*On May 3, 1982, Focus submitted an amendment revising the merger agreement between FBK and KTC. Pursuant to the revised agreement KTC's interest will be 70% and Focus' interest will be 30%. Additionally, Focus will adopt KTC's file number.

against FBK and its successor, Focus, remained September 8, 1980.

5. In opposition, WCCB states that when FBK and Kannapolis TV first notified the Commission on September 8, 1980, of their intent to merge and served WCCB, this was the first notice to WCCB. Subsequently, within 15 days, WCCB petitioned to deny Focus' application and opposed the merger. WCCB contends that its original May 16 petition against Focus' predecessor, Cabarrus, has not been dismissed or denied. Therefore, when Cabarrus became Kannapolis TV, the May 16 petition became applicable to Kannapolis TV's application. Now that Focus has been formed, WCCB's May 16 petition, as supplemented and incorporated into its September 23 petition, also lies against Focus' application.

6. Inasmuch as the original petition has not been denied or dismissed, the Commission agrees that the original petition as amended, is not rendered moot by subsequent reorganizations of Cabarrus, since WCCB supplemented it as circumstances warranted, to reflect changes in the original application.

Finances

7. Generally, WCCB alleges that Focus' financial showing is insufficient. Specifically, Petitioner notes that prior to the formation of Focus, FBK and Kannapolis TV agreed that Focus would adopt Section III (financial qualifications) of FBK's application. The application showed that approximately \$2.7 million would be required to construct and operate the proposed facility, itemized as follows:³

| | |
|----------------------------------|-------------|
| Equipment..... | \$2,435,000 |
| Land/Buildings..... | 50,000 |
| Other (inc. legal and eng.)..... | 47,000 |
| Miscellaneous..... | 25,000 |
| Operating Costs (3 months)..... | 208,057 |
| Total..... | 2,765,057 |

WCCB contends that since Focus has only \$10,000 in available funds to finance the cost of construction and operation of the proposed facility, the applicant is not qualified.

8. Focus concedes that it is aware of the deficiency in the financial resources of its joint venturer, FBK. In this connection, FBK states that it intends to acquire the requisite financing from a yet to be determined source. Therefore, FBK and, consequently, Focus, have not

³Focus intends to rely on the estimated cost of construction and operation of the proposed facility from its joint venturer, Kannapolis TV Co. Therefore, the above figures are taken from BPCT-790928K1.

shown their ability to meet the proposed expenditures. Accordingly, an appropriate issue will be specified.

Real Party in Interest

9. WCCB contends that it cannot be determined who the ultimate operator of Channel 64 will be if Focus' application is granted. In support of the above, Petitioner cites various provisions from the joint petition submitted by FBK and Kannapolis. In opposition, Focus contends that the joint venture agreement clearly sets forth the ownership interest, and any appurtenant conditions with regard to the respective parties. Moreover, Focus notes that any potential changes in ownership pursuant to these conditions would have to be consistent with Commission Rules.

10. The test for determining whether a third party is a real party in interest is whether that party has an ownership interest, or is or will be in a position to actually or potentially control the operation of the station. *KOWL, Inc.*, 49 FCC 2d 962, 964 (1974). While supplying the major source of financing does not necessarily cause a third party to become a real party in interest, *Medford Broadcasters, Inc.*, 16 FCC 2d 684, 15 RR 2d 780 (1969), "it is well known that one of the most powerful and effective methods of control of any business, organization or institution and one of the most potent causes of involuntary assignment of its interest is the control of finances." *Heitmeyer v. FCC*, 68 U.S. App. D.C. 180, 188, 95 F. 2d 91, 99 (1937). The Commission is of the opinion that sufficient allegations have not been made to warrant inquiry into a real party in interest question, i.e., whether there is an undisclosed principal. The agreement clearly sets forth the terms, conditions and the proposed relationship between the two merging parties. There is no evidence that the applicant is attempting to conceal a controlling party, nor does it appear that any financial arrangements exist which will permit a third party to exert control over the applicant.

De facto Reallocation⁴

11. Generally, WCCB alleges that the applicant's proposal is inconsistent with section 307(b) of the Communications Act and the Commission's TV Table of Assignments, 47 CFR 73.606. Specifically Petitioner argues that grant of Focus'

⁴The Commission recently has indicated that it intends to revisit its current *de facto* reallocation policy. The staff has been directed to prepare an item for Commission consideration for the purpose of reexamining that policy. *Son Broadcasting, Inc.*, 88 FCC 2d, 635 (1981). If and when the Commission's *de facto* reallocation policy is changed, the new policy will be applied to all pending applications, including any then in hearing.

application would effectuate a *de facto* reallocation of Channel 64 from Kannapolis to Charlotte. In support of its argument, WCCB cites the following: Focus has selected a transmitter site five miles outside of Kannapolis; applicant proposes to operate at 977 kW effective radiated visual power, with an antenna height 1459 feet above average terrain; no white or gray areas will be eliminated; the applicant divided its ascertainment efforts between Charlotte and Kannapolis and proposes a city grade contour which would completely encompass Charlotte.

12. In opposition, Focus notes that the transmitter site selected by the applicant is closer to Kannapolis than to Charlotte, the facilities proposed will provide the requisite city grade service to Kannapolis; the tower has been approved by the FAA; and the power and height proposed are well within the limits prescribed by the Commission's Rules.

13. The Commission considers a variety of factors in deciding whether a hearing is necessary to determine whether an applicant's proposal is an attempt to serve communities other than the city of license. See, *Communications Investment Corporation*, 641 F 2d 954 (D.C. Cir. 1981). We have reviewed Focus' application in light of *CIC, supra*, and conclude that no substantial and material questions of fact have been raised to warrant a hearing on this issue. Focus would place the requisite city grade signal over its community of license. Although Focus' proposed city grade contour will also encompass Charlotte, there is no evidence that Focus intends to serve Charlotte at the expense of its community of license. Moreover, Focus proposes to locate its main studio in Kannapolis, not in Charlotte. Finally, there has been no prior interest evinced on the part of Focus to locate in Charlotte. Consequently, we agree with Focus that WCCB has provided no basis to warrant the designation of a *de facto* reallocation issue.

Economic Impact

14. WCCB contends that Focus' application should be denied or designated for hearing under *Carroll Broadcasting Company v FCC*, 258 F 2d 440, 17 RR 2066 (1958). WCCB's pleading is concerned solely with the impact which Focus would have on WCCB's ability to survive and compete effectively if Focus were granted STV authority. Focus' STV application, however, is not before the Commission in this proceeding. Since Focus is mutually exclusive with Community

and, therefore, must go into comparative hearing, there is no assurance that Focus' application for a construction permit will be granted. Because no action can be taken on the STV application unless Focus wins a construction permit, matters pertaining to the STV application are premature and will not be considered in this proceeding. Since STV applications are not subject to cut-off procedures, WCCB may subsequently file whatever it wishes against the STV application if Focus is the permittee as the result of the hearing.

Motion To Dismiss Community's Application

15. Focus alleges that, on September 5, 1980, four months after the May 16, 1980 "A" cut-off date, Community filed an amendment reflecting a transfer of control within the meaning of §§ 73.3573(b) and 73.3540 of the Commission's Rules. Focus contends that § 73.3573(b) of the Rules requires the dismissal of Community's application. In opposition, Community notes that at least 83.6% of its stock has, at all times, been owned by Truth Temple, Inc., a non-stock religious organization. Since the church corporation was formed in 1972, the Board of Directors has consisted of the same three persons who now constitute the board. The Board makes the day-to-day decisions for the church, although the Articles of Incorporation provide that "the Directors of the Corporation shall consist of all persons included on the membership roll of the church who are eighteen years or older," i.e., the entire adult congregation. Notwithstanding this provision, it is clear that the body which makes church policy and implements that policy is the Board of Directors and, although there has been a change in the officers, there has been no change in the Board of Directors. Since, in a non-stock corporation, control is considered to be in the body which is responsible for day-to-day management, the Commission finds that there has been no change in control of Truth Temple and the motion to dismiss Community's application will, therefore, be denied.

Community's Application

16. The financial data submitted by Community reveals that approximately \$320,973 will be required to construct and operate the proposed station for three months, estimated as follows:

| | |
|---|---------|
| Equipment payments (with interest 3 months) | 27,789 |
| legal/Engineering (includes installation) | 23,500 |
| Miscellaneous | 1,000 |
| Operating Costs, 3 months | 86,650 |
| Total | 320,973 |

To meet these expenditures, Community relies upon a bank loan of \$700,000 (less payments of interest, \$650,500 net) and additional loans totalling \$54,000. As a condition to the loan, the bank is requiring a lien on all of the tangible assets of the applicant. Community proposes to lease its broadcast equipment from Comark, an equipment manufacturer, who also wants to retain a security interest in the equipment as a condition to its lease agreement. Since, under the present circumstances, the equipment lease agreement is not assignable, we are unable to determine whether the loan will be available if the bank is unable to acquire a secured interest in the equipment. Likewise, we are unable to determine whether the proposed \$54,000 in additional loans is available since the balance sheets of the investors were not submitted pursuant to the instructions contained in Paragraph 4(b), Page 3, Section III, Form 301. In one instance, liabilities were not included, nor were receivables and payables properly segregated. Therefore, an appropriate issue will be specified.

Petition for Reconsideration

17. On June 3, 1980, Kannapolis TV, sought reconsideration of the Broadcast Bureau's denial of its petition for extension of time in which to respond to WCCB's May 16 petition to deny, filed against Kannapolis TV's joint venturer, Cabarrus. Subsequently, Kannapolis TV merged with FBK to form Focus. WCCB then filed a supplemental pleading against Focus, incorporating its May 16 petition against Focus' predecessors, which had remained unopposed. Thereafter, Focus filed an opposition to WCCB's petition, making no reference to the prior proceedings between Kannapolis TV and WCCB. Consequently, we believe that Kannapolis TV has had enough time to file an opposition if it intended to do so. Therefore, in light of the above, we will consider the petition for reconsideration moot.

Conclusion and Order

18. Except with respect to the issues specified below, we find that the applicants are qualified to construct and operate as proposed. We are, however, unable to make the statutory finding that a grant of the applications would

serve the public interest, convenience and necessity and the applications must be designated for hearing.

19. Accordingly, it is ordered, That the petitions to deny and supplements thereto, file herein, are granted to the extent indicated and otherwise ARE DENIED.

20. It is further ordered, that the Joint Petition For Approval of Agreement filed by Kannapolis Television Co., a Joint Venture and Focus Broadcasting of Kannapolis, Inc. IS GRANTED.

21. It is further ordered, that the applications of Kannapolis Television Co., a Joint Venture, and Focus Broadcasting, are dismissed.

22. It is further ordered, that the Motion to Dismiss filed by Focus Television Co., a Joint Venture, against Community Action Communications, is denied.

23. It is further ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications of Focus Television Co., a Joint Venture, and Community Action Communications, Inc. are designated for hearing in a consolidated proceeding before an Administrative Law Judge at a time and place to be specified in a subsequent Order upon the following issues.

1. To determine with respect to Focus:

(a) Whether the applicant has \$2,765,057 available to construct and operate the proposed station for three months.

(b) Whether, in light of the evidence adduced pursuant to (a) above, applicant is financially qualified;

2. To determine with respect to Community:

(a) Whether the applicant has \$320,973 available to construct and operate the proposed station for three months.

(b) Whether in light of the evidence adduced pursuant to (a) above the applicant is financially qualified;

3. To determine, on a comparative basis, which of the applications would better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

24. It is further ordered, that WCCB-TV, Inc., licensee of WCCB-TV, Charlotte, North Carolina is made a party respondent in this proceeding, with respect to ISSUE 1.

25. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within twenty (20) days of the mailing of this Order, shall file with

| | |
|--------------------------------|----------|
| Equipment cash purchases | \$35,000 |
| Equipment down payment | 147,034 |

the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

26. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934 as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(d) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Broadcast Bureau.

Larry D. Eads,

Chief, Broadcast Facilities Division,
Broadcast Bureau.

[FR Doc. 82-13960 Filed 5-20-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Cleveland (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banc One Corporation*, Columbus, Ohio; to acquire 100 percent of the voting shares or assets of The Chardon Savings Bank Company, Chardon, Ohio. Comments on this application must be received not later than June 9, 1982.

B. Federal Reserve Bank of Minneapolis (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Dacotah Bank Holding Co.*, Aberdeen, South Dakota; to acquire 100

percent of the voting shares or assets of Faulk County State Bank, Faulkton, South Dakota. Comments on this application must be received not later than June 16, 1982.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Midwest Bancorp, Inc.*, St. Joseph, Missouri; to acquire 100 percent of the voting shares or assets of Bank of Tuscumbia, Tuscumbia, Missouri. Comments on this application must be received not later than June 16, 1982.

2. *Pioneer Bancorporation*, Denver, Colorado; to acquire 99.4 percent of the voting shares of City Center National Bank, Aurora, Colorado. Comments on this application must be received not later than June 16, 1982.

D. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Bancshares of Texas, Inc.*, Longview, Texas; to acquire 100 percent of the voting shares of Tyler National Bank, Tyler, Texas. Comments on this application must be received not later than June 16, 1982.

2. *Grand Bancshares, Inc.*, Dallas, Texas; to acquire 100 percent of the voting shares of Grand Bank Woodall Rodgers at Pearl, N.A., Dallas, Texas. Comments on this application must be received not later than June 16, 1982.

3. *Grand Bancshares, Inc.* (formerly GAB Company), Dallas, Texas; to acquire 100 percent of the voting shares or assets of Grand Central Bank at Fitzhugh, N.A. (in organization), Dallas, Texas. Comments on this application must be received not later than June 16, 1982.

E. 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; to acquire 51 percent of the voting shares or assets of Borrego Springs Bank, (in organization), Borrego Springs, California. Comments on this application must be received not later than June 16, 1982.

Board of Governors of the Federal Reserve System, May 17, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-13895 Filed 5-20-82; 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 section 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 June 10, 1982.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of New England Corporation*, Boston, Massachusetts (formerly New England Merchants Company, Inc.) (Leasing activities; nationwide): To engage, through its subsidiary, NEMCO Leasing Corporation, in the leasing of real and personal property. These activities would be conducted from an office located at 50 Milk Street, Boston, Massachusetts, serving the entire United States.

B. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (consumer lending activities; Maryland, Pennsylvania, Delaware, Virginia, and the District of Columbia): To engage *de novo* through its wholly-owned subsidiary, Citicorp Financial, Inc., in

the making of consumer loans secured by second mortgage or second trust liens. Such activities would be conducted from offices located in Towson, Maryland; Baltimore, Maryland; Hyattsville, Maryland; and Glen Burnie, Maryland, serving the states identified in the caption above.

2. *Citicorp*, New York, New York (consumer finance and insurance activities; Indiana, Michigan): To expand the service area of an office of its subsidiary, Citicorp Acceptance Company, Inc., located in Columbus, Ohio and engaged in the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agent or brokers, as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Acceptance Company, Inc., to the extent permissible under applicable state insurance laws and regulations; and the servicing, for any person, of loans and other extensions of credit. The previously approved service area for the aforementioned activities encompasses the States of Kentucky, Ohio, Pennsylvania, and West Virginia. The proposed expanded service area for all activities, with the exception of the sale of credit related property and casualty insurance, which is not included in this notification, shall be the entire States of Indiana and Michigan. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Acceptance Company, Inc.

C. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Bankshares Corporation*, Roanoke, Virginia (insurance activities; Tazewell and Loudoun Counties, Virginia, and Mercer, West Virginia): To engage through its subsidiary, Dominion Bankshares Services, Inc., in acting as insurance agent or broker with respect to the following types of insurance related to or arising out of loans made or credit transactions involving The First National Exchange Bank of Virginia and Dominion National Bank of Northern

Virginia, affiliates of Dominion Bankshares Corporation: credit life insurance, credit accident and health insurance credit disability insurance; mortgage accident redemption insurance and mortgage and health insurance; nonconvertible term life insurance; and physical damage insurance on motor vehicles, mobile homes, motor homes, boats, trailers and other kinds of personal property or attachments designed for use in connection therewith. The activities covered by this proposal will be conducted through the offices of The First National Exchange Bank of Virginia established through merger with southwest Virginia National Bank, Bluefield, Virginia, and through the offices of Dominion National Bank of Northern Virginia established through merger with Commonwealth Bank and Trust Company of Virginia, Sterling, Virginia, and serving the counties of Tazewell and Loudon, Virginia, and Mercer, West Virginia.

2. *Southern Bancorporation, Inc.*, Greenville, South Carolina (consumer finance lender; Texarkana, Texas): To engage through its subsidiary, World Acceptance Corporation, in making extensions of credit as a licensed consumer finance lender. These activities would be conducted from an office at 222 W. Broad Street, Texarkana, Texas, serving the city limits of Texarkana and other parts of Bowie County.

D. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *InterFirst Corporation*, Dallas, Texas (financing activities; United States): To engage through its subsidiary, InterFirst Funding Corporation, in making or acquiring for its own account or for the account of others, loans and other extensions of credit. These activities would be conducted from Dallas, Texas, serving the United States.

2. *South Texas Bancshares, Inc.*, Beeville, Texas (credit reinsurance activities; Texas): To engage through its subsidiary, South Texas Bankers Life Insurance Company, in credit reinsurance activities, including the assumption of credit life and disability insurance directly related to its extensions of credit. These activities would be conducted from offices located in Beeville and Mathis, Texas, serving Bee County and San Patricio County, Texas. Comments on this application must be received not later than June 3, 1982.

Board of Governors of the Federal Reserve System, May 14, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-13894 Filed 5-20-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have 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 bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Bolivar Capital Corporation*, Cleveland, Mississippi; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank of Bolivar County, Cleveland, Mississippi. Comments on this application must be received not later than June 16, 1982.

2. *Gateway Capital Corporation*, Hernando, Mississippi; to become a bank holding company by acquiring 99.3 percent or more of the voting shares of The Hernando Bank, Hernando, Mississippi. Comments on this application must be received not later than June 16, 1982.

3. *Summersville Bancshares, Inc.*, Summersville, Missouri; to become a bank holding company by acquiring 85 percent of the voting shares of Summersville State Bank, Summersville, Missouri. Comments on this application must be received not later than June 16, 1982.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Guaranty, Inc.*, Beloit, Kansas; to become a bank holding company by

acquiring at least 80 percent of the voting shares of The Guaranty State Bank and Trust Company, Beloit, Kansas. Comments on this application must be received not later than June 16, 1982.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas:

1. *First Amarillo Bancorporation, Inc.*, Amarillo, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Amarillo, Amarillo, Texas. Comments on this application must be received not later than June 16, 1982.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Community Bancorporation*, Pullman, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Pullman, Pullman, Washington. Comments on this application must be received not later than June 16, 1982.

2. *First Northwest Bancorporation*, Seattle, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Northwest Bank, Seattle, Washington. Comments on this application must be received not later than June 16, 1982.

3. *Napa Valley Bancorp*, Napa, California; to become a bank holding company by acquiring 100 percent of the voting shares of Napa Valley Bank, Napa, California. Comments on this application must be received not later than June 16, 1982.

E. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *Charter Bancorporation, Inc.*, Newport, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Stoughton State Bank, Stoughton, Wisconsin. Comments on this application must be received not later than June 16, 1982.

2. *Security Holding Company*, Fredericksburg, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Security Financial Corporation of Fredericksburg, Fredericksburg, Texas. Comments on this application must be received not later than June 16, 1982.

Board of Governors of the Federal Reserve System, May 17, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-13896 Filed 5-20-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anesthetic and Life Support Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Anesthetic and Life Support Drugs Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on May 1, 1984, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: May 14, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-13886 Filed 5-20-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0102]

CooperVision, Inc.; Premarket Approval of Cooper™ 38 (Polymacon) Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Cooper™ 38 (Polymacon) Hydrophilic Contact Lens, sponsored by CooperVision, Inc., San Jose, CA. The lens is to be manufactured under an agreement with National Patent Development Corp., New Brunswick, NJ, which has authorized CooperVision, Inc., to incorporate by reference information contained in its approved premarket approval application for the

Hydron® (polymacon) Hydrophilic Contact Lens. FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petition for administrative review by June 21, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On December 4, 1981, CooperVision, Inc., San Jose, CA, submitted to FDA an application for premarket approval of the Cooper™ 38 (polymacon) Hydrophilic Contact Lens. The application included authorization from National Patent Development Corp., New Brunswick, NJ, to refer to its approved premarket approval application for the Hydron® (polymacon) Hydrophilic Contact Lens (Docket No. 79M-0244). On March 18, 1982, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), soft (hydrophilic contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft (hydrophilic) contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the *Federal Register* of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft (hydrophilic) contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's

approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of an approved contact lens states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved contact lenses. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the *Federal Register* of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or any at other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of

material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the *Federal Register*. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 21, 1982, file with the Dockets Management Branch (HFA-305) (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 4, 1982.

William F. Randolph,
*Acting Associate Commissioner for
Regulatory Affairs.*

[FR Doc. 82-13885 Filed 5-20-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0095]

Headquarters Laboratory Facilities, State of Maryland, Prince Georges County; Availability of Record of Decision Following Environmental Impact Analysis

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the record of its decision to build new headquarters laboratory and support facilities, in a phased construction program, on government-owned land at Beltsville, MD. The record of decision identifies the alternatives considered and the environmental and other relevant factors balanced by the agency in reaching its decision.

ADDRESS: The record of decision, the final environmental impact statement, and historic preservation and archeological investigation reports for the Beltsville site are available for review at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. A limited number of free copies of the record of decision and of the final environmental impact statement are available at the same address.

FOR FURTHER INFORMATION CONTACT:
William H. Hoffman, Chief, Long Range
Facilities Planning Staff (HFA-200),

Food and Drug Administration, 5600
Fishers Lane, Rockville, MD 20857, 301-
443-4432.

SUPPLEMENTARY INFORMATION: FDA evaluated a number of alternative sites in the Washington metropolitan area for the construction of a new facility for laboratories, laboratory support, animal testing, and related offices. Following that evaluation, a 244-acre site in Beltsville was selected for construction of the facility. Because the proposed site appeared to be environmentally valuable due to its rural character and ecological diversity, the agency conducted an intensive evaluation of the potential environmental impact of the proposed facility.

The agency invited community and professional participation in a "scoping" meeting held September 12, 1979, at Beltsville. The meeting was intended to give all interested parties the opportunity to comment on the proposed FDA plans and to determine the scope of the issues to be addressed before development of a draft environmental impact statement (EIS). Notice of this meeting was published in the *Federal Register* (44 FR 47619, August 14, 1979) and in local newspapers circulated in the area of the proposed construction site. Individuals and organizations who might be expected to be interested in the proposed action were personally invited.

A document entitled "Draft Environmental Impact Statement—Headquarters Laboratory Facilities" was made available to the public (Docket No. 80N-0095, 45 FR 29413, May 2, 1980) and officially filed for public review by the Environmental Protection Agency (FRL 1500-3, 45 FR 35004, May 23, 1980).

A final EIS was issued under the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190) (sec. 102(2)(c), 83 Stat. 853 (42 U.S.C. 4321-4347)), January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, and Pub. L. 94-83, August 9, 1975 and the Council on Environmental Quality regulations published in the *Federal Register* of November 29, 1978 (43 FR 55978 to 56007, 40 CFR Parts 1500-1508), Executive Order 11514, Protection and Enhancement of Environmental Quality, (March 5, 1970 as amended by Executive Order 11991, May 24, 1977), and FDA's environmental regulations implementing the National Environmental Policy Act (21 CFR Part 25). The final EIS was made available to the public (Docket No. 80N-0095, 46 FR 38142, and ER-FRL-1893-8, 46 FR 38139, July 24, 1981).

As required by the Council on Environmental Quality regulations (40 CFR Part 1505), FDA has prepared a record of its decision to build replacement laboratory and support facilities, in a phased construction program, on government-owned land at Beltsville, MD. The record of decision explains the basis for the agency's decision and the alternatives and factors which were balanced by the agency in making that decision.

The record of decision is issued under the National Environmental Policy Act of 1969 (sec. 102(2)(c); 83 Stat. 853 (42 U.S.C. 4321-4327); the Council on Environmental Quality regulations (40 CFR Part 1505); and FDA implementing procedures for the National Environmental Policy Act (21 CFR Part 25).

The record of decision, the final environmental impact statement, and historic preservation and archeological investigation reports for the Beltsville site are available for review at the Dockets Management Branch (HFA-305) (address above).

Dated: May 11, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-13887 Filed 5-20-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N-0333; DESI 12813]

Ophthalmic Combination Drug Containing Sodium Sulfacetamide, Prednisolone Acetate, Phenylephrine Hydrochloride, and Antipyrine; Drugs for Human Use; Drug Efficacy Study Implementation; Revocation of Exemption; Opportunity for Hearing

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice revokes the temporary exemption for continued marketing of Blephamide Liquifilm Ophthalmic Suspension containing sodium sulfacetamide, prednisolone acetate, phenylephrine hydrochloride, and antipyrine. Under the exemption, the drug has been allowed to remain on the market for continued study beyond the time limit scheduled for implementing the Drug Efficacy Study. This notice also reclassifies this particular formulation of Blephamide to lacking substantial evidence of effectiveness, proposes to withdraw approval of those parts of the new drug application providing for this formulation, and offers an opportunity for a hearing on the proposal. This notice does not apply to Blephamide

Liquifilm Ophthalmic Suspension formulated to contain only sodium sulfacetamide and prednisolone acetate as active ingredients.

DATES: The revocation of the exemption is effective May 21, 1982; requests for hearing by June 21, 1982; material to support hearing request by July 20, 1982.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 81N-0333 and DESI 12813, and directed to the attention of the appropriate office named below:

Request for a hearing, supporting data, and comments: Dockets Management Branch (formerly the Hearing Clerk) (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the *Federal Register* of February 19, 1972 (37 FR 3779), FDA classified the following drug product as possibly effective for the treatment of nonpurulent blepharitis and blepharoconjunctivitis (seborrheal, staphylococcal, allergic), and nonpurulent conjunctivitis (allergic and bacterial).

NDA 12-813; Blephamide Liquifilm Ophthalmic Suspension containing sodium sulfacetamide, prednisolone acetate, phenylephrine hydrochloride, and antipyrine; Allergan Pharmaceuticals, Inc., 2525 Dupont Dr., Irvine, CA 92713.

Subsequently, in a notice published in the *Federal Register* of December 14, 1972 (37 FR 26623), FDA exempted Blephamide from the timetable established for implementing the Drug Efficacy Study. Under the exemption no data were submitted on Blephamide. Instead, the manufacturer reformulated Blephamide to a type of ophthalmic combination drug product determined by FDA to be effective—containing only sodium sulfacetamide and prednisolone acetate as active ingredients. The conditions for marketing and approval of this type of ophthalmic combination drug were announced in the *Federal Register* of August 29, 1980 (45 FR 57780). On September 25, 1981, FDA approved the reformulation of Blephamide.

Accordingly, the temporary exemption granted to Blephamide by the December 14, 1972 notice is revoked. In addition, because no data have been submitted demonstrating the contribution of phenylephrine hydrochloride and antipyrine to the effect of the combination drug, the Director of the Bureau of Drugs proposes to withdraw approval of those parts of NDA 12-813 that provide for Blephamide formulated to contain sodium sulfacetamide, prednisolone acetate, phenylephrine hydrochloride, and antipyrine, and offers an opportunity for a hearing on the proposal. This notice does not apply to Blephamide formulated to contain only sodium sulfacetamide and prednisolone acetate as active ingredients.

On the basis of all data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355, 21 CFR 314.111(a)(5), and 21 CFR 300.50), demonstrating the effectiveness of Blephamide as a fixed-combination drug containing sodium sulfacetamide, prednisolone acetate, phenylephrine hydrochloride, and antipyrine.

Therefore, notice is given to the holder of the new drug application, and to all other interested persons, that the Director of the Bureau of Drug proposes to issue an order under section 505(e) of the act, withdrawing approval of those parts of the new drug application and all amendments and supplements thereto that provide for Blephamide formulated to contain sodium sulfacetamide, prednisolone acetate, phenylephrine hydrochloride, and antipyrine on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder of the new drug application specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to the drug product named above, as defined in 21 CFR

310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for a hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug product subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, contained in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act and the regulations promulgated under it (21 CFR Parts 310, 314), the applicant and all other persons subject to this notice under 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the pertinent parts of the new drug application should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and of all identical, related, or similar drug products.

The applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before June 21, 1982, a written notice of appearance and request for hearing, and (2) on or before July 20, 1982, the data, information, and analysis relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analysis to justify a hearing, other comments, and a grant or denial of hearing are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200

constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses, in the request for hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70, 5.82).

Dated: May 5, 1982.

J. Richard Crout,
Director, Bureau of Drugs.

[FR Doc. 82-13884 Filed 5-20-82 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0150]

Antibiotic Drugs and Antibiotic Susceptibility Medical Devices; Interim Certification Procedures

Correction

In FR Doc. 82-12885, appearing at page 20186, in the issue of Tuesday, May 11, 1982, make the following changes:

On page 20186, in the third column, in the DATES paragraph, change "June 11" to "June 10";

On page 20187, in the second column, change the second word in the 16th line of the second paragraph to "bathces".

BILLING CODE 1505-01-M

[Docket Nos. 80P-0501 and 81P-0115]

Coherent, Inc. and Cooper Medical Devices Corp.; Microsurgical Argon Laser Intended for Use in Otolaryngology; Panel Recommendations on Petitions for Reclassification

Correction

In FR Doc. 82-12680, appearing at page 20188, in the issue of Tuesday, May 11, 1982, make the following change:

On page 20189, in the third column, the last paragraph, the last sentence should read
Accordingly, FDA referred both petitions to the Ear, Nose, and Throat Device Section of the Ophthalmic, Ear, Nose, and Throat; and Dental Devices Panel (the Section), and in accordance with section 513(f)(2) and § 860.134(b)(6) of the regulations will, after reviewing the Section recommendations and any public comments received, approve or deny both petitions by orders in the form of letters to the petitioners.

BILLING CODE 1505-01-M

Radiological Health and Safety Advisory Committee; Request for Nominations of Voting Members

Correction

In FR Doc. 82-12571, appearing at page 21087, in the issue of Tuesday, May 11, 1982, make the following change:

On page 20188, in the first column, the first paragraph, the 5th line, change "July 9" to "July 12".

BILLING CODE 1505-01-M

MFA Milling Co.; MFA Dog Food Medicated (Diethylcarbamazine); Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) providing for the use of MFA Dog Food Medicated (diethylcarbamazine) for control of large roundworms in dogs. The sponsor, MFA Milling Co., has requested the withdrawal.

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food

and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: MFA Milling Co., MFA, Inc., 506 Boonville, Box 757-Jewell Station, Springfield, Mo 65801, is the sponsor of NADA 14-683 which provides for the use of MFA Dog food Medicated (diethylcarbamazine) containing 0.0066 percent diethylcarbamazine. The product was approved on January 10, 1964, for use as an aid in the control of large roundworms (ascarids) in dogs. In response to an FDA letter, the firm informed the agency that the product is no longer manufactured or marketed. The firm subsequently requested withdrawal of approval and waived opportunity for hearing. Approval of this NADA had not been codified in the CFR.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 14-683 and all supplements for MFA dog Food Medicated (diethylcarbamazine) is hereby withdrawn, effective June 1, 1982.

Dated: May 7, 1982.

Gerald B. Guest,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-13505 Filed 5-20-82; 8:45 am]
BILLING CODE 4160-01-M

Public Health Service

Office Of The Assistant Secretary For Health; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (38 FR 18571, July 12, 1973, as amended in pertinent part at 44 FR 23130, April 18, 1979) is amended to reflect the deletion of program support functions for the President's Council on Physical Fitness and Sports (PCPFS) from the Office of Health Information, Health Promotion, Physical Fitness and Sports Medicine and the Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health. These functions

will be relocated and carried out in the immediate Office of the Assistant Secretary for Health. This new focus will provide PCPFS staff with greater autonomy in support of critical relationships with various constituencies outside PHS.

Section HA-20, Functions, is amended as follows: Under the heading entitled *Office of Disease Prevention and Health Promotion (HA8)* amend item (7) to read: "receives advice on matters related to physical fitness from the President's Council on Physical Fitness and Sports;" and under the heading entitled *Office of Health Information, Health Promotion, Physical Fitness and Sports Medicine (HA81)* amend item (19) to read: "receives advice from the President's Council on Physical Fitness and Sports on matters related to physical fitness."

Dated: May 13, 1982.

Richard S. Schweiker,
Secretary.

[FR Doc. 82-13990 Filed 5-20-82; 8:45 am]
BILLING CODE 4160-17-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on May 14.

Public Health Service

Food and Drug Administration

Subject: Measuring Timeliness and Responsiveness of Letters to Consumers—Extension
Respondents: Individuals
Subject: Notice of Claimed Investigational Exemption for a New Drug—Revision
Respondents: Drug manufacturers
Subject: Intraocular Lens Investigational Device Exemption Application—Extension
Respondents: Manufacturers of intraocular lenses
Subject: Request for certification or Testing of an Antibiotic Batch—Extension
Respondents: Antibiotic manufacturers,
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Quality Control Negative Case Action Worksheet/Review

Schedule—Table I (SSA-6401)—Extension

Respondents: Individuals or households/state or local governments
Subject: Application for Special Age 72 or Over Monthly Payments (SSA-19-F6)—Revision
Respondents: Individuals or households,
OMB Desk Officer: Richard Eisinger

Health Care Financing Administration

Subject: Medicaid Quality Control Corrective Action Plans—Extension/No Change
Respondents: States
Subject: Request for Termination of Medicare Hospital Insurance and/or Supplementary Medical Insurance—Extension/No Change
Respondents: Individuals, OMB Desk Officer: Fay S. Iudicello
Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524, F, Washington, D.C. 20201.
OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. Attn: (name of OMB Desk Officer).

Dated: May 18, 1982.

Dale W. Sopper,
Assistant Secretary for Management and Budget.

[FR Doc. 82-13989 Filed 5-20-82; 8:45 am]
BILLING CODE 4150-04-M

National Institutes of Health

Cancer Control Grant Review Committee; National Cancer Institute; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Grant Review Committee, National Cancer Institute, June 7-8, 1982, Conference Room 8, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. This meeting will be open to the public on June 7 from 8:30 a.m. to 9:00 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 7, from 9:00 a.m. to adjournment and on June 8, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Robert F. Browning, Executive Secretary, Cancer Control Grant Review Committee, National Cancer Institute, Westwood Building, Room 806, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7413) will furnish substantive program information.

(Catalog of Federal Domestic Assistance number 13.399, project grants and contracts in cancer control, National Institutes of Health) (NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular)

Dated: May 18, 1982.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 82-14134 Filed 5-20-82; 10:53 am]

BILLING CODE 4140-01-M

National Advisory Eye Council; National Eye Institute; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, June 3 and 4, 1982, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 9:00 a.m. until approximately noon on Thursday, June 3, for opening remarks by the Director, National Eye Institute; a discussion of *Vision Research, a National Plan: 1983-87*; a discussion regarding a proposed conference on the subject of Improved Tissue Preservation for Diagnosis; discussions of procedural matters; and presentations by the extramural staff of the Institute.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately noon for the remainder of the day on Thursday, June 3, and all day on Friday, June 4, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Carter, Committee Management Officer, National Eye Institute, Building 31, Room 6A03, National Institutes of Health, Bethesda, Maryland 20205 (301) 496-4903, will provide summaries of meetings and rosters of committee members.

Dr. Ronald G. Geller, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A03, National Institutes of Health, Bethesda, Maryland 20205 (301) 496-4903, will furnish substantive program information.

Dated: May 18, 1982.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-14135 Filed 5-20-82; 10:53 am]

BILLING CODE 4140-01-M

National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council; National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council and its subcommittees on June 2, 3, and 4, 1982 in Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on June 2 from 8:30 a.m. to approximately 12:00 noon, and on June 3 from 1:00 p.m. to 1:30 p.m. to discuss administration, management,

and special reports. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, on June 3 the meetings of the following subcommittees will be closed to the public from 8:30 a.m. to approximately 1:00 p.m.: Arthritis, Musculoskeletal and Skin Diseases; Diabetes, Endocrine, and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urology and Hematology. The full Council meeting will be closed to the public on June 2 from 1:00 p.m. to adjournment, June 3 from 1:30 p.m. to adjournment, and on June 4, from 8:30 to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. George T. Brooks, Executive Secretary, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205, (301) 496-7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIADDK, Building 31, Room 9A46, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5765.

(Catalog of Federal Domestic Assistance Program No. 13.846-849, Arthritis, Bone and Skin Diseases; Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: May 18, 1982.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 82-14136 Filed 5-20-82; 10:53 am]

BILLING CODE 4140-01-M

Board of Scientific Counselors Division of Cancer Treatment; National Cancer Institute Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National

Cancer Institute, June 3-4, 1982, to be held at the Sheraton Potomac Inn, Shady Grove Road at Route 270, Rockville, Maryland 20205. This meeting will be open to the public on June 3, 1982, from 8:30 a.m. until approximately 5 p.m., and again on June 4, 1982, from 8:30 a.m. until adjournment, to review program plans, contract recompletions and budget for the DCT program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 3, 1982, from approximately 5 p.m. to adjournment, for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A-06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Bruce A. Chabner, Acting Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A-52, National Institutes of Health, Bethesda, Maryland 20205 (301/496-4291) will furnish substantive program information.

Dated: May 13, 1982

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 82-14133 Filed 5-20-82; 10:53 am]

BILLING CODE 4140-01-M

Board of Scientific Counselors, NEI; National Eye Institute, Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, June 7 and 8, 1982, Building 31, Room 6A-35, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on June 7 8:30 a.m. until approximately 4:00 p.m. for general remarks by the Institute's Scientific Director on matters concerning the intramural programs of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S.

Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 7 from approximately 4:00 p.m. until adjournment on June 8 for review, discussion, and evaluation of individual projects conducted by the Section of Experimental Biology and by the Section of Experimental Anatomy of the Laboratory of Vision Research, NEI. This evaluation and discussion could reveal personal information concerning individuals associated with the projects, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Consequently, this meeting is concerned with matters exempt from mandatory disclosure.

Ms. Mary Carter, Committee Management Officer, National Eye Institute, Building 31, Room 6A03, National Institutes of Health, Bethesda, Maryland 20205 (301) 496-4903, will provide summaries of the meeting and rosters of committee members.

Substantive program information may be obtained from Dr. Jin Kinoshita, Scientific Director, National Eye Institute, Building 31, Room 6A04, National Institutes of Health, Bethesda, Maryland 20205 (telephone) (301) 496-7483.

Dated May 3, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-14137 Filed 5-20-82; 10:53 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[PHX-081900]

Arizona; Order Providing for Opening of Public Lands

Correction

In FR Doc. 82-11271, published at page 17867, on Monday, April 26, 1982, on page 17867, in the first column, under "T. 19 N., R. 21 W.," in the eleventh line "S $\frac{1}{2}$ N $\frac{1}{2}$;" should be corrected to read "S $\frac{1}{2}$ N $\frac{1}{2}$,S $\frac{1}{2}$."

BILLING CODE 1505-9-M

Draft Challis Plan Amendment and Wilderness Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of and public hearing on the Draft Challis Plan

Amendment and Wilderness Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and section 603(a) of the Federal Land Policy and Management Act of 1976, the Department of the Interior has prepared a Draft Plan Amendment and Wilderness Environmental Impact Statement for four Wilderness Study Areas (WSAs) in the Challis Planning Unit, Salmon District, Idaho. The four WSAs contain 110,110 acres. The proposed action recommends 48,500 acres as non-suitable for wilderness and 59,680 acres as suitable for wilderness. A recommendation for 1,930 acres has been deferred to allow joint study with an adjacent U.S. Forest Service RARE II Further Planning Area.

Copies of the Draft Challis Plan Amendment and Wilderness Environmental Impact Statement are available for review at the following locations:

Salmon District Office, Bureau of Land Management, Highway 93 South, Box 430, Salmon, Idaho 83467. Telephone (208) 756-2201.

Idaho State Office, Bureau of Land Management, Federal Building, 500 W. Fort Street, Boise, Idaho 83724. Telephone (208) 334-1770.

Public Affairs, Bureau of Land Management, Interior Building, 18th and C Street, NW, Washington, D.C. 20240. Telephone (208) 343-5717.

DATES: Written comments on the Draft statement are invited and should be submitted by August 2, 1982. A public hearing as required by section 3(d) of the Wilderness Act will be held on June 30, 1982 at 7:00 p.m. at the Northgate Inn in Challis, Idaho.

ADDRESSES: Written comments should be submitted to: District Manager, Bureau of Land Management, Box 430, Salmon, Idaho 83467.

FOR FURTHER INFORMATION CONTACT: David Wolf, Bureau of Land Management, Box 430, Salmon, Idaho 83467. Telephone (208) 756-2201.

or

George Weiskircher, Bureau of Land Management, Idaho State Office, Box 042, Federal Building, 550 W. Fort Street, Boise, Idaho 83724. Telephone (208) 334-1748.

SUPPLEMENTARY INFORMATION:

Individuals wishing to testify may do so by appearing at the hearing place previously specified. Persons wishing to give testimony will be limited to 10 minutes with written submissions invited. Prior to giving testimony at the

public hearing, individuals or spokespersons are requested to contact the Salmon District Manager at the above address.

Dated: May 10, 1982.

Clair M. Whitlock,

State Director.

[FR Doc. 82-13557 Filed 5-20-82; 8:45 am]

BILLING CODE 4310-84-M

Issuance of Disclaimer of Interest to Lands in Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Issuance of Disclaimer of Interest in Lands in Nevada.

SUMMARY: Notice is hereby given that the United States of America, pursuant to the provisions of section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), does hereby give notice of its intention to disclaim and release all interest to the owners of record for the following described property, to-wit:

Those lands in Elko County, Nevada, situated between the westerly boundary of Franklin Lake as evidenced by the meander line as shown on the plats approved by the U.S. Surveyor General for Nevada on March 29, 1870, and the lines designated as Partition Lines A and B and Center Line of Franklin Lake on the plats accepted by the Assistant Commissioner of the General Land Office on July 2, 1926, said plats being the survey of Townships 28 and 29 North, Range 58 East, and Townships 28, 29 and 30 North, Range 59 East, Mount Diablo Meridian, Nevada; and said lands being more particularly described using the bearings and distances from the official General Land Office plats and field notes as follows:

Commencing at the east quarter corner of Section 15, T. 28 N., R. 58 E., Mount Diablo Meridian, Nevada, thence north, 7.00 chains distance to the meander corner of Sections 14 and 15 which is the true point of beginning;

Thence with the 1870 meander line of Franklin Lake in T. 28 N., R. 58 E., through Section 15;

N. 28°00' W., 18.25 chains,
N. 19°45' W., 18.00 chains, to the meander corner of Sections 10 and 15;

Thence through Section 10;

N. 43°00' W., 19.10 chains,

N. 32°30' W., 27.00 chains,

N. 42°30' W., 55.00 chains, to the meander corner of Sections 9 and 10;

Thence through Section 9;

N. 33°00' W., 3.80 chains, to the meander corner of Sections 4 and 9

Thence through Section 4;

N. 10°00' W., 41.10 chains,

N. 04°00' W., 39.00 chains, to the meander corner of Section 4,

T. 28 N., R. 58 E., and Section 33, T. 29 N., R. 58 E.;

Thence with the 1870 meander line of Franklin Lake in T. 29 N., R. 58 E., through Section 33;

N. 02°15' W., 13.00 chains,

N. 83°00' W., 12.00 chains,

N. 38°30' E., 23.00 chains,

N. 02°00' W., 22.00 chains,

N. 01°00' E., 25.20 chains, to the meander corner of Sections 28 and 33;

Thence through Section 28;

N. 21°30' W., 55.00 chains,

N. 40°45' E., 24.00 chains,

N. 78°00' E., 15.60 chains, to the meander corner of Sections 27 and 28;

Thence through Section;

N. 66°15' E., 19.70 chains, to the meander corner of Sections 22 and 27;

Thence through Section 22;

N. 22°45' E., 17.00 chains,

N. 74°15' E., 30.00 chains,

N. 55°30' E., 12.00 chains,

N. 04°30' W., 22.00 chains,

N. 24°00' W., 7.00 chains,

N. 71°15' W., 4.00 chains,

N. 22°00' E., 21.60 chains, to the meander corner of Sections 15 and 22;

Thence through Section 15;

N. 15°30' E., 12.00 chains,

N. 71°00' W., 8.00 chains,

N. 20°15' W., 38.00 chains,

N. 41°30' E., 36.00 chains,

N. 01°00' W., 3.40 chains, to the meander corner of Sections 10 and 15;

Thence through Section 10;

N. 02°00' E., 21.00 chains,

N. 57°00' E., 12.40 chains, to the meander corner of Sections 10 and 11;

Thence through Section 11;

N. 57°15' E., 43.00 chains,

N. 40°30' E., 9.00 chains,

S. 79°30' E., 16.00 chains,

N. 88°45' E., 22.70 chains, to the meander corner of Sections 11 and 12;

Thence through Section 12;

N. 70°15' E., 71.35 chains, to the meander corner of Sections 1 and 12;

Thence through Section 1;

N. 36°30' E., 22.44 chains, to the meander corner of Sections 1, T. 29 N., R. 58 E., and Section 6, T. 29 N., R. 59 E.;

Thence with the 1870 meander line of Franklin Lake in T. 29 N., R. 59 E., through Section 6;

N. 48°15' E., 18.00 chains,

N. 44°15' E., 25.00 chains,

N. 05°30' E., 9.00 chains,

N. 41°15' E., 31.42 chains, to the meander corner of Sections 6, T. 29 N., R. 59 E., and Section 31, T. 30 N., R. 59 E.,

Thence with the 1870 meander line of Franklin Lake in T. 30 N., R. 59 E., through Section 31;

N. 14°00' W., 6.00 chains,

N. 50°00' E., 10.00 chains,

N. 65°00' E., 22.30 chains, to the meander corner of Sections 31 and 32;

Thence through Section 32;

N. 55°30' E., 19.00 chains,

N. 65°00' E., 17.00 chains,

N. 63°00' E., 55.00 chains, to the meander corner of Sections 32 and 33;

Thence through Section 33;

N. 20°15' E., 13.00 chains,

N. 77°00' E., 12.70 chains, to the meander corner of Sections 28 and 33;

Thence through Section 28;

N. 55°00' E., 16.00 chains,

N. 70°00' E., 17.00 chains,

N. 32°00' E., 13.00 chains,

N. 41°45' E., 23.00 chains,

N. 29°30' E., 23.20 chains, to the meander corner of Sections 27 and 28;

Thence through Section 27;

N. 72°30' E., 13.00 chains,

N. 45°00' E., 18.70 chains, to the meander corner of Sections 22 and 27;

Thence with the 1870 meander line as adjusted and shown on the plat of T. 30 N., R. 59 E., accepted July 2, 1926, through Section 22;

N. 43°48' E., 9.65 chains,

S. 87°20' E., 3.00 chains,

S. 56°44' E., 5.95 chains, to the intersection with the meridional section line of Section 22 which point is the northerly line of Partition Line B as shown on said plat of T. 30 N., R. 59 E., accepted July 2, 1926;

Thence along said Partition Line B

S. 6°15' W., 138.70 chains, to AP 15 on the Center Line of Franklin Lake.

Thence along said Center Line of Franklin Lake as shown on the Plats of Ts. 28 and 29 N., R. 58 E., and Ts. 29 and 30 N., R. 59 E., accepted July 22, 1926;

S. 53°30' W., 69.00 chains, to AP 14,

S. 66°00' W., 45.00 chains, to AP 13,

S. 51°00' W., 39.50 chains, to AP 12,

S. 58°00' W., 40.00 chains, to AP 11,

S. 32°30' W., 37.30 chains, to AP 10,

S. 48°45' W., 58.40 chains, to AP 9,

S. 56°30' W., 36.00 chains, to AP 8,

S. 50°45' W., 85.10 chains, to AP 7,

S. 14°30' W., 95.80 chains, to AP 6,

S. 24°30' W., 76.90 chains, to AP 5,

S. 38°45' W., 35.40 chains, to AP 4,

S. 29°45' W., 88.40 chains, to AP 3,

S. 06°15' W., 45.00 chains, to AP 2,

S. 51°00' E., 64.00 chains, to AP 1,

Thence along Partition Line A as shown on said plat of T. 28 N., R. 58 E.;

S. 20°30' W., 108.30 chains, to the meander corner of Sections 14 and 15, T. 28 N., R. 58 E., and the point of beginning.

After review of the official records and the original public land survey, it is the position of the Bureau of Land Management that:

1. Franklin Lake is now a dry lake bed and it has been since the early 1900s.

2. The original meanders of Franklin Lake were properly run.

3. Franklin Lake was non-navigable.

4. The lowering of the water by natural or artificial means did not change ownership of the lands uncovered.

5. The Government's title to the upland entitles it to accretion and reliction of the bed of the lake as far as the center but not beyond.

6. The land on the west of Franklin Lake was patented and the land on the east remained public land.

7. There is no Federal interest in the west half of Franklin Lake.

Any person wishing to submit a protest or comments on the above disclaimer should do so by writing before the expiration of August 19, 1982. If no protest(s) is received, the disclaimer will be effective on the date set out below.

EFFECTIVE DATE: Disclaimer of title and release of all interest of the United States shall issue on August 19, 1982.

ADDRESS: Information concerning these lands and the proposed disclaimer may be obtained from the protest filed with: Director (320), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Henry Beauchamp, (202) 343-8693.

D. Dean Bibles,

Assistant Director.

[FR Doc. 82-13955 Filed 5-20-82; 8:45 am]

BILLING CODE 4310-84-M

Wilderness Protest Decision

A total of six protest letters were received during the period specified to protest the December 1981 decision on the Stateline area wilderness inventory. This decision was published in the December 18, 1981, issue of the *Federal Register*. The following three Wilderness Study Areas (WSA's) had been identified totalling 304,129 acres:

| | | Acres |
|------------------------|--------------------------|---------|
| ID-16-48c..... | Little Owyhee River..... | 24,677 |
| OR-3-195/ID-16-48b.... | Owyhee River Canyon.... | 229,100 |
| ID-16-53/NV/010-103A. | South Fork Owyhee River. | 50,352 |

The remaining 321,866 acres in the inventory area were dropped as lacking in wilderness characteristics.

The six letters included protests against the WSA decision as well as against the decision to drop acreage. Several letters dealt with only one unit, while one letter included comments on eight units. Only three areas included in the December 1981 decision were not covered in any of the protests—the Juniper Basin and Little Goose Creek Units (dropped in entirety), and the dropped portion of the South Fork Owyhee River Unit.

Analysis of the statements in the protest letters revealed a variety of comments on wilderness characteristics, particularly on the naturalness and the solitude-recreation evaluations.

Many of the statements made in these protest letters had already been conveyed to BLM during earlier comment periods and thus had been

taken into account prior to the final decision. New information, in many instances, expressed differences of opinion on highly subjective factors used to determine wilderness characteristics, but did not point out inaccuracies in the BLM data or in the method used to conduct the inventory.

The only change that was warranted as a result of the protests is in the northwestern portion (in Oregon) of the Owyhee River Canyon Unit, where 300 additional acres are being dropped in response to comments in one protest letter. This change is based on new information provided on the cumulative impacts that man-made intrusions have on the wilderness characteristics in an extremely narrow portion of the unit.

This change reduces the WSA acreage in the three units with 303,829 acres now identified as WSA's. Dropped acreage now totals 322,166 acres.

Upon publication in the May 21, 1982, issue of the *Federal Register*, this decision on the protests will be subject to appeal. Any person adversely affected by the decision may appeal under the provisions of Title 43, Code of Federal Regulations (CFR), Part 4, and as amended in 45 FR 5713.

Although portions of the areas involved in the protest are in three states—Idaho, Oregon, and Nevada—to simplify the appeal procedure, please file correspondence related to appeals with the Idaho State Office at the following address: Bureau of Land Management, Idaho State Office, Federal Building, Box 042, 550 W. Fort Street, Boise, ID 83724.

John S. Davis,

Acting Chief, Division of Resources.

[FR Doc. 82-13956 Filed 5-20-82; 8:45 am]

BILLING CODE 4310-84-M

Alabama; Call for Expressions of Leasing Interest in Coal

AGENCY: Bureau of Land Management, Interior, Eastern States Office.

ACTION: Call for Expressions of Leasing Interest in Coal.

SUMMARY: This call for expression of coal leasing interest is to integrate potential lessees' data and needs into the coal activity planning phase of the federal coal management program in the Southern Appalachian Coal Region. The data received from this call will be used along with existing data to delineate tracts which would be considered for possible competitive leasing.

DATE: Responses to this notice may be received until July 19, 1982.

ADDRESS: Responses should be sent to Robert Todd, Manager, Tuscaloosa

Office, Bureau of Land Management, 518 19th Avenue, Tuscaloosa, AL 35401 and to George Brown, Minerals Manager, Minerals Management Service, Eastern Region, 1951 Kidwell Drive, Suite 601, Vienna, VA 22180.

FOR FURTHER INFORMATION CONTACT:

Robert M. Wilson, Tuscaloosa Office, Bureau of Land Management, (205) 759-5441 or Jeff Williams, Eastern States Office, Bureau of Land Management, 350 S. Pickett, Alexandria, VA 22304, (703) 235-3630.

SUPPLEMENTARY INFORMATION: In FR Vol. 47, No. 88, page 19586, published May 6, 1982, an advance notice of intent to call for expressions of interest in coal leasing was published.

This notice is to advise you than the official call for expressions of leasing interest for the area acceptable for further consideration for coal leasing located within the North Central Alabama Land Use Analysis is now in effect. Expressions of interest under this call may be submitted until July 19, 1982, to the Manager, Tuscaloosa Office, Bureau of Land Management, 518 19th Avenue, Tuscaloosa, Alabama 35401, telephone (205) 759-5441.

Maps and other detailed information on the above mentioned areas found acceptable for further consideration for coal leasing may be obtained from the Tuscaloosa Office at the address given above.

This call for expressions of interest is the first step in activity planning under the coal management program. It is being made before any tract boundaries are delineated within an area found acceptable for further consideration for coal leasing through conducting the coal screening/planning process, including the application of the Department of the Interior's final coal unsuitability criteria. The results of this call will provide significant information that will be employed in delineating tracts that might be put up for lease sale after tract ranking, selection, scheduling, and analysis processes that are integral parts of the Federal coal program defined in 43 CFR Subpart 3420.

Expressions of interest from small business and public bodies are actively invited in accordance with the provisions of 43 CFR 3420.1-4 which state that a reasonable number of lease tracts will be reserved and offered through competitive lease sales to those qualifying under the definitions of public bodies and small coal and mining businesses. Entities desiring special leasing opportunities as a public body should state their intentions in their expressions of leasing interest for

possible public body set-asides. Proof of public body status and evidence of qualification as required by 43 CFR 3420.1-4(b)(1)(ii) shall be submitted with the expression of interest.

An expression of interest is not an application. The major purpose of this call for expression of interest is to integrate potential lessees' data and needs with the process of delineating the logical mining units which will be considered prior to a lease sale. Examples of the types of concerns that may influence the delineation of tracts as proposed in expressions of interest include: The competitive nature of the tract, access needs, mining efficiency, future coal development potential, resource conservation, and State preference and priorities. BLM hopes to gain sufficient information from this call, as well as from its own site specific analysis, to identify areas in which data are of sufficient detail to ultimately make a fair market value determination of specific tracts.

The expressions of leasing interest should include the following data where applicable:

1. Quantity needs (total tonnage, average tons per year, and year during which production should commence) for both coal producers and users;
2. Quality needs (types and grades for coal) for both producers and users.
3. Coal reserve or drilling data of a proprietary nature that the company may have pertaining to the expression of interest area should be submitted to the Minerals Management Service. This request is made based on lack of total coal reserve data by the MMS at this time. Lack of reserve data may eliminate areas for tract delineation.
4. Location.
 - a. Tracts desired by mining companies (narrative description with delineation on a minerals status map, available from the BLM Tuscaloosa Office).
 - b. Public and private industry user facilities in region.
 - c. If no location is indicated, but other specified data are provided, the expression will still be considered. In the joint BLM/MMS delineation team will locate the tract.
5. Type of Mine.
 - a. Surface or underground.
 - b. Technique of mining (i.e. longwall, room and pillar, dragline, etc.)
6. Proposed Uses of Coal.
 - a. By mining companies.
 - b. By public and private industries.
7. Where coal is consumed (includes extra-regional markets).
8. Transportation Needs (i.e. railroads, pipelines, etc.).
 - a. Existing facilities.

b. Proposed facilities and development timing.

9. Available Sources of Coal.

a. Presently operative.

b. Contingency or other resources.

10. Information Relating to Mineral Ownership.

a. Information on surface owner consents previously granted; e.g. a description of the location of the property, whether consents are transferable, etc.

b. Commitments from fee owners of associated non-Federal coal.

11. Special qualifications for public bodies requesting special leasing opportunities. These specific requirements are listed in 43 CFR 3471.1-5.

An individual, business entity, governmental entity or public body may participate and submit expressions of leasing interest under this call.

In addition, at this time BLM would like to invite participation by public interest groups or individuals that have interest in the second-round coal activity planning and the Alabama Sub-region of the Southern Appalachian Coal Production Region and affected environment. For further information in this regard, please contact Environmental Impact Statement Team Leader Edwin Roberson at the Tuscaloosa Project Office.

Denise P. Meridith,

Acting Eastern States Director.

[FR Doc. 82-13941 Filed 5-20-82; 8:45 am]

BILLING CODE 4310-84-M

[UT-060-138]

Utah; Proposed Wilderness Inventory Decision on the Reassessment of Negro Bill Canyon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As directed by the Interior Board of Land Appeals (IBLA) in a decision dated March 15, 1982, the Utah BLM has made a reassessment of the outstanding opportunities for solitude and primitive and unconfined recreation wilderness characteristics within the Negro Bill Canyon intensive inventory unit (UT-060-138). The reassessment of these wilderness characteristics concludes that both characteristics are present and that 7,620 acres should be identified as a wilderness study area (WSA). The remainder of the 9,420 acre unit (1,800 acres) contains human imprints which creates an apparent loss of naturalness within the unit. A small boundary adjustment is also included in this acreage as per Organic Act

Directive 78-61, Change 3, 1.f.(2)(b) and (c). Therefore, the proposed decision is to identify a 7,620 acre portion of the unit as a wilderness study area (WSA).

Persons are invited to submit information to BLM by June 20, 1982 on the above described wilderness characteristics within intensive inventory unit UT-060-138. After examination and consideration of the information submitted the final wilderness inventory decision on this unit will be announced. Information should be submitted to Gene Nodine, District Manager, 125 West 2nd South Main, P.O. Box 970, Moab, Utah 84532.

The reassessment of the outstanding opportunities criteria was brought about as a result of an administrative appeal to IBLA by the Utah Chapter Sierra Club. IBLA set aside the earlier decision and remanded the case for further action by BLM. This reassessment is consistent with the action of IBLA.

FOR FURTHER INFORMATION CONTACT: Kent Biddulph, BLM Utah State Office, (801) 524-4257.

Dated: May 14, 1982.

Roland G. Robison,
State Director.

[FR Doc. 82-13893 Filed 5-20-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application; Stanley D. Fejta, et al.

Applicant: Stanley D. Fejta, Metairie, Louisiana; PRT 2-9149

The applicant requests a permit to purchase four (4) nene geese (*Branta sandvicensis*) in interstate commerce from Ladywood Game Farm, Poulsbo, WA for enhancement of propagation.

Applicant: Milwaukee County Zoo, Milwaukee, Wisconsin; PRT 2-9150

The applicant requests a permit to import one female captive-bred bactrian camel (*Camelus bactrianus*) from the Toronto Zoo, Ontario, Canada for enhancement of propagation.

Applicant: E.G. & G. Energy Measurements Group, Goleta, California; PRT 2-4573

The applicant requests an amendment to their permit to allow for radio-tagging blunt-nosed leopard lizards (*Crotaphytus silus*) and to expand their location where authorized activities can be conducted to include the entire known range of blunt-nosed leopard lizards and the San Joaquin kit fox (*Vulpes macrotis mutica*). These activities are being carried out for the purpose of scientific research.

Applicant: Cincinnati Zoo, Cincinnati, Ohio; PRT 2-9128

The applicant request a period to export one female captive-bred Ocelot (*Felis pardalis*) to the Japan Felinae Research Institute, Tokyo, Japan, for enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicants.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on this application on or before June 21, 1982 by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: May 14, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-13978 Filed 5-20-82; 8:45 am]

BILLING CODE 43110-55-M

Office of the Secretary

Prohibition of Federal Flood Insurance on Undeveloped Coastal Barriers; Preliminary Identification

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Availability of Draft Environmental Impact Statement and Additional Draft Maps.

SUMMARY: This Notice announces the availability of a draft environmental impact statement (DEIS) prepared with regard to the Secretary of the Interior's responsibility to (1) designate undeveloped coastal barriers, as reflected in a draft document entitled "Undeveloped Coastal Barriers: Definitions and Delineation Criteria" (January 15, 1982—47 FR 2283), and (2) to report to Congress with recommendations (if any) regarding changes to the term "coastal barriers".

The Notice also announces the availability of additional draft delineations developed as a result of public response to the January 15, 1982, draft maps. A list of the new maps is included below.

DATES: Comments on the draft environmental impact statement should be received no later than July 14, 1982. Comments on the additional draft maps should be received on or before June 11, 1982.

ADDRESSES: Comments on all materials should be sent to Mr. Ric Davidge, Chairman, Coastal Barriers Task Force, U.S. Department of the Interior, Washington, DC. 20240.

FOR FURTHER INFORMATION CONTACT: *Draft Environmental Impact Statement:* Mr. Hardy Pearce, Manager; Coastal Barriers Task Force; the National Park Service—780; United States Department of the Interior, Washington, D.C. 20243. (202) 272-3566. *Draft Maps:* Mr. Robert A Peoples, U.S. Fish and Wildlife Service—250, United States Department of the Interior, Washington, D.C. 20240. (202) 343-6307.

SUPPLEMENTARY INFORMATION: As enacted on August 13, 1981, section 341 of the Omnibus Budget Reconciliation Act of 1981, established a two-fold responsibility for the Secretary of the Interior with regard to the designation of undeveloped coastal barriers. Under this provision, the Secretary is directed to:

- Conduct a study for the purpose of designating undeveloped coastal barriers and to provide a report to Congress concerning the conclusions of such study and any recommendations regarding the definition of the term "coastal barriers"; and,
- To designate undeveloped coastal barriers.

Consistent with these responsibilities, the secretary of the Interior established a Coastal Barriers Task Force. The Task Force has now completed a series of important steps in implementing this provision.

On December 1, 1981, a "Notice of Intent" to issue a proposed rule was published in the *Federal Register*, 46 FR 58346. This notice outlined the steps to be taken consistent with the Reconciliation Act. In essence, it indicated the Department's intention to provide for public review of a pre-proposed set of draft definitions and associated draft maps—providing a preliminary identification of areas being studied as possible undeveloped coastal barriers.

On December 8, 1981, this notice was amended, 46 FR 60022, to make the proposed draft definitions available for an initial intergovernmental review. As indicated in our January 15, 1982, release, *infra*, initial comments on the pre-proposed draft of the definitions were solicited from concerned Members of Congress and Governors of coastal States in letters from the Secretary of the Interior dated December 9 or 10, 1981.

On December 21, 1981, a "Notice of Intent to Prepare an Environmental Impact Statement" was published, 46 FR 61929. That notice again expressed the Department's intention to make the draft

definitions and designations available for public review on or about January 15, 1982. The notice also provided that the "draft EIS should be available at the time, or shortly thereafter". While the DEIS being released today is later than had been anticipated, this document is designed to serve the purposes outlined in that notice of intent: i.e., to assess the environmental implications of alternative actions the Secretary of the Interior may take or recommend pursuant to his two-fold responsibilities under the Reconciliation Act.

On January 15, 1982, 47 FR 2382, the Department did release its draft definitions and draft maps, as it had indicated previously. These documents were available for comment through March 22, 1982. Extensive comments were received.

At this point, the Department of the Interior is taking two additional steps in the implementation of its Reconciliation Act responsibilities. The release of the DEIS will permit the public to review and comment upon a range of alternatives that are available to the Secretary—either as a part of his report to the Congress or as a basis for his proposed designations of undeveloped coastal barriers, although not all of the alternatives under consideration are authorized by the Reconciliation Act. Some of these alternatives would require legislative changes. Only in this manner, however, can a full range of alternatives be analyzed. In this regard, the presentation of a range of alternatives has benefited significantly from public comments. While it was not the Department's original intent to delay release of the DEIS until after March 22, the public comments on the January 15 release have been of significant value in identifying issues and impacts. These comments have been carefully considered in the scoping of the alternatives for the DEIS and evaluating their environmental impacts.

The second step being announced today is the release of additional draft maps. The same public comments that have been helpful with regard to the development of the proposed action and its alternatives and their impacts in the DEIS have also served to recommend that many new areas be included. These areas are now being evaluated by the Coastal Barriers Task Force. As with the January 15 release, it has been determined that drafts maps of these additional areas initially considered to be undeveloped coastal barriers should be made available for public review and comment at the pre-proposed or draft stage. Once again, consistent with the January 15 release, these areas are

herein identified on a list attached hereto. Further, a draft map of each unit will be mailed to other levels and branches of government with a known interest and are now available to others upon request. Comments on these additional drafts maps must be received on or before June 11, 1982.

Completion of the DEIS and the new draft maps will permit the Task Force to begin preparation of the proposed maps to be provided to the Congress on August 13, 1982. It will also enable greater attention to preparation of the Report and the proposed rule. The Department will continue development of these tasks while the DEIS is being reviewed by the public.

Based upon the public comments already available from the January 15 release, and the comments on the new draft maps, it is the Department's intent to complete a set of interim proposed definitions and interim proposed designations by the end of June. In addition, the Department intends to make these interim proposed definitions and maps available for intergovernmental review by letters to be sent to the Governors and Congressmen of the affected states prior to July 1, 1982. Comments will then be accepted through July 14, 1982.

In this manner, all comments from all sources will be available to the Coastal Barriers Task Force on or before July 14, 1982. Thereafter, all of these comments will be carefully considered and all interim proposed definitions and designations will be carefully reevaluated in light of those comments. No final decision on proposed definitions or designations will be made, and no irrevocable steps will be taken, until that final evaluation period is completed.

The Department's proposed designations and Report will be provided to the Congress on or before August 13, 1982, as required by the Reconciliation Act, and the public will again be invited to comment. The Final Environmental Impact Statement with regard to the Secretary's report responsibilities will also be made available at that time. Final designations, however, will not occur until after the close of that Congressional and public comment period which will not be less than 60 days—or October 13, 1982. Final designation will occur pursuant to a final rulemaking.

Dated: May 18, 1982.

Bruce Blanchard,

Director, Office of Environmental Project Review.

Additional Draft (Pre-proposed) Undeveloped Coastal Barriers

Following is a list of 55 new draft (pre-proposed) undeveloped coastal barrier units or additions to existing units. These resulted from comments on the draft definition and delineation criteria documents, maps and information summaries circulated for public review beginning on January 15, 1982.

Nearly 200 areas were recommended for inclusion by respondents. The 55 draft areas listed here represent those initially considered by the Department of the Interior to be undeveloped coastal barriers based upon the nature of the area as of March 15, 1982, consistent with the January 15, 1982, draft definitions document. As with the previous January 15 draft, comments received on these draft units will be considered by the Department prior to providing proposed designations to the Congress on or before August 13, 1982, as required by the Reconciliation Act.

Unit Number and Unit Name

Maine

- A05A 700 Acre Island
- A05B Head Beach

Massachusetts

- C01A Good Harbor Beach
- C01B Brace Cove
- C09 Sandy Neck Unit Addition
- C11A Boat Meadow
- C18A Falmouth Ponds
- C23A Fishers Landing
- C28 South Beach Unit Additions
- C29A James Pond
- C29B Mink Meadows
- C31 Elizabeth Islands Unit Additions
- C31A West Sciticut Neck

Rhode Island

- D02 Fogland Marsh Unit Addition

Connecticut

- E01A Ram Island
- E03A Niantic Bay
- E03B Lynde Point
- E08 Fayerweather Island
- E09 Norwalk Islands

New York

- F06 Shelter Island Barriers Unit Addition
- F08A Sammys Beach
- F08B Acabonack Harbor
- F13 Tiana Beach

Virginia

- K01 Assawoman Island Unit Addition

North Carolina

- L01A Duck Research Center
- L03A Shackleford banks

South Carolina

- M04 Debidue Beach Unit Addition
- M10 St. Helena Sound Unit Addition

Georgia

- N01A Wassaw Island
- N04A Little Cumberland Island
- N04B Cumberland Island

Florida

- P02 Bird/Talbot Islands Unit Addition
- P02A Wards Bank
- P05 Conch Island Unit Addition
- P08 Ponce Inlet Unit Additions
- P09A Coconut Point
- P10A Blue Hole Unit Addition
- P11 Hutchinson Island Unit Addition
- P15 Cape Romano Unit Addition
- P17A Bodwitch Point
- P19 North Captiva Island Unit Additions
- P20A Gasparilla Island
- P21A Manasota Key Unit Additions
- P23 Longboat Key Unit Addition
- P24 The Reefs Unit Addition
- P24A Mandalay Point
- P27A Ochlockonee Complex
- P30 Cape San Blas Unit Addition
- P31 St. Andrew Complex Unit Addition
- P31A Four Mile Village

Alabama

- Q00 Perdido Key
- Q01 Mobile Point Unit Additions
- Q01A Pelican Island

Mississippi

- R01A Belle Fontaine Point

Texas

- T11 South Padre Island Unit Addition
- [FR Doc. 82-13934 Filed 5-20-82; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; 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 to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: American Brands, Inc., 245 Park Avenue, New York, New York 10167.

2. Wholly-owned subsidiaries which will participate in the operations, and their respective states of incorporation:

Delaware

- Acme Visible Records, Inc.
- Acushnet Company
- The Andrew Jergens Company
- James B. Beam Distilling Co.
- Sunshine Biscuits, Inc.
- Bell Brand Foods, Inc.
- Swingline, Inc.
- Wilson Jones Company

Michigan

Sugar Beet Products Company.

1. Parent corporation and address of principal office: Beatrice Foods Co., Two North LaSalle St., Chicago, IL 60602.

2. Wholly-owned subsidiaries and addresses of their principal place of business:

- Allison Manufacturing Co., 350 Fifth Avenue, New York, NY 10001
- Arrowhead Puritas Waters, Inc., 1334 S. Central Avenue, Los Angeles, CA 90021
- Aunt Nellie's Foods, Inc., P.O. Box 67, Clyman, WI 53016
- Bloomfield Industries, 4546 W. 47th Street, Chicago, IL 60632
- Brookside Enterprises, Inc., 9900 Guasti Road, Guasti, CA 91743
- Cal-Compac Foods, Inc., P.O. Box 265, 4906 W. First Street, Santa Ana, CA 92702
- Certified Transportation Co., 2068 Lapham Drive, P.O. Box 845, Modesto, CA 95353
- Citrus Bowl, Inc., 7-02 154th Street, Whitestone, NY 11357
- D. L. Clark Company, 503 Martindale Street, Pittsburgh, PA 15212
- Coca-Cola Bottling Co. of Cedar Rapids
- Coca-Cola Bottling Co. of (Dubuque, IA)
- Coca-Cola Bottling Co. of Honolulu, Inc.
- Coca-Cola Bottling Co. of Los Angeles
- The Coca-Cola Bottling Co. of Madison-Rockford
- The Coca-Cola Bottling Co. of Mid-America, Inc.
- Coca-Cola Bottling Company of Omaha County Line Cheese Co., Route 2, Auburn, IN 46706
- Culligan International Co., One Culligan Parkway, Northbrook, IL 60062
- Dahlgren & Company, P.O. Box 609, 1220 Sunflower Street, Crookston, MN 56716
- Day-Timers, P.O. Box 67, East Texas, PA 18046
- Diamond Head Beverages, Inc., 949 Mapunapuna Street, Honolulu, HI 96819
- Peter Eckrich and Sons, Inc., P.O. Box 388, Ft. Wayne, IN 46801
- Fiberite Corporation, 501 W. Third Street, Winona, MN 55987
- Fiberite West Coast Corporation, 645 N. Cypress, Orange, CA 92666
- Fisher Nut Company, P.O. Box 3434 (55165), 2327 Wycliff Street, St. Paul, MN 55114
- James J. Gallery, Inc., 555 Pleasant St., Watertown, MA 02172
- Harmon Automotive, Inc., P.O. Box 329, Bolivar, TN 38008
- Industrial Glass Co., Inc., 1001 Thirteenth Avenue, East, Bradenton, FL 33506
- International Container Corp. 1001 Thirteenth Avenue, East, Bradenton, FL 33506
- Kaaawa Farms, Ltd., 949 Mapunapuna Street, Honolulu, HI 96819
- Kelley Manufacturing Co., South Industrial Park, P.O. Drawer 1467, Tifton, GA 31794
- E. W. Kneip, Inc., P.O. Box 161, Forest Park, IL 60130
- KSS Transportation Corp., c/o Webcraft, P.O. Box 185, Route 1 and Adams Station, North Brunswick, NJ 08902
- LaChoy Food Products, P.O. Box 220, 901 Stryker Street, Archbold, OH 43502
- LouverDrape, Inc., 1100 Colorado Avenue, Santa Monica, CA 90401
- Market Forge, 35 Garvey Street, Everett, MA 02149
- Martha White Foods, Inc., P.O. Box 58, Room 900-110 21st Avenue South, Nashville, TN 37202
- Melnor Industries, Inc., One Coral Place, Noonachie, NJ
- Mid-America Container Corporation
- Minnesota Valley Engineering, 407 7th Street NW., New Prague, MN 56071
- E. R. Moore Company, 7230 N. Caldwell Avenue, Niles, IL 60648
- Mother's Cookie Co., P.O. Box 16159, 2287 Ralph Avenue, Louisville, KY 40216
- National Packaging Corp., 1001 Thirteenth Avenue, East, Bradenton, FL 33506
- Northeast Cold Storage Corp., 165 Read Street, Portland, ME 04104
- Poultry Foods Industries, Inc., P.O. Box C, Russellville, AR 72801
- Quality Beverages, Inc., 1334 S. Central Avenue, Los Angeles, CA 90021
- Quincy Market Cold Storage and Warehouse Co., 555 Pleasant St., Watertown, MA 02172
- Rainbo Foods, Inc., P.O. Box 23603 (70183), 5635 Powell Street, Harahan, LA 70123
- Refreshment Vending Service Co., 1334 S. Central Avenue, Los Angeles, CA 90021
- St. John's Inc., 130 Gunn St., Cadillac, MI 49601
- Samsonite Corporation, 11200 E. 45th Avenue, Denver, CO 80239
- Sanna, Inc., 6501 Grand Teton Plaza, Madison, WI 53705
- John Sexton & Co., P.O. Box JS (60690), 222 S. Riverside Plaza, Chicago, IL 60606
- Taylor Freezer, Blackhawk Blvd., Rockton, IL 61072
- Tindle Mills, Inc., M.P.O. Box 733, 701 E. Chestnut, Springfield, MO 65801
- Tropicana Products Sales, Inc., 1001 Thirteenth Avenue, Bradenton, FL 33506
- Tropicana Transportation Corp., 1001 Thirteenth Avenue, Bradenton, FL 33506
- Tropicana Products, Inc., 1001 Thirteenth Avenue, Bradenton, FL 33506
- Waterloo Industries, Inc., 300 Ansbrough Avenue, Waterloo, IA 50704
- Webcraft Games, Inc., Route 1 and Adams Station, North Brunswick, NJ 08902
- Zero Transport, Inc., P.O. Box 22666, Tampa, FL 33622
- Culligan International Company Subsidiaries**
- CWC, Inc., 2047 U.S. Highway 22 (West), Union, NJ 07083
- Culligan Dayton, Inc., P.O. Box 2326, Kattering Branch, Dayton, OH 45429
- Culligan Desplaines Valley, Water Conditioning, Inc., 1111 E. Washington Street, Joliet, IL 60433
- Culligan Dutchess-Putman Water Conditioning, Inc., 860 Route 9 South Wappingers Falls, NY 12590
- Culligan Peninsula Industrial Water Conditioning Co., P.O. Box 547 (1785 Russell Avenue), Santa Clara, CA 95052
- Culligan Soft Water Service of Santa Barbara, Inc., 1026 Santa Barbara Street, Santa Barbara, CA 93101
- Culligan Soft Water Service of Whittier, Inc., 12221 East Hadley, Whittier, CA 90601
- Culligan Water Conditioning, Inc., 350 W. Sunset Drive, Waukesha, WI 53186
- Culligan Water Conditioning, Inc., 7801 Menaul, Blvd., Albuquerque, NM 87110
- Culligan Water Conditioning of Battle Creek, Inc., 465 Dickman Rd., Battle Creek, MI 49015
- Culligan Water Conditioning of Butler, Inc., 300 New Castle Street, Butler, PA 16001
- Culligan Water Conditioning of Greater Detroit, Inc., 5510 Cooley Lake Road, Pontiac, MI 48054
- Culligan Water Conditioning of Greater Pittsburgh, Inc., 4941 Cambells Run Road, Pittsburgh, PA 15205
- Culligan Water Conditioning of Houston, Inc., 12235 Robin Blvd., Houston, TX 77045
- Culligan Water Conditioning of the Inland Empire, P.O. Box 5016, Riverside, CA 92517
- Culligan Water Conditioning of Jacksonville, Inc., 615 Dellwood Avenue, Jacksonville, FL 32204
- Culligan Water Conditioning of Los Gatos, 611 University Avenue, Los Gatos, CA 95030
- Culligan Water Conditioning of Orange County, 1911 S. Manchester Avenue, Anaheim, CA 92802
- Culligan Water Conditioning of South Bend, Inc., 2218 S. Main Street, South Bend, IN 46613

Culligan Water Conditioning of Tidewater, Inc., P.O. Box 647, Hertford, NC 27944

Culligan Water Conditioning of Tippecanoe County, Inc., 3450 Kossuth Street, Lafayette, IN 47095

Culligan Water Conditioning of Torrance, 20730 Earl Street, Torrance, CA 9050

Everpure, Inc., 660 N. Blackhawk Drive, Westmont, IL 60559

Greater Chicago Culligan Water Conditioning, Inc., 6619 Lincoln Avenue, Lincolnwood, IL 60645

Greater Kansas Culligan Water Conditioning, Inc., 2805 W. 47th Street, Shawnee Mission, KS 66205

Indiana Soft Water Service, Inc., 3335 N. Keystone, Indianapolis, IN 46218

St. Louis Soft Water Service, Inc., 10947 Manchester Road, St. Louis, MO 63122

Soft Water Service, Inc., 270 W. Palatine Road, Wheeling, IL 60090

Subsidiaries Located in Ontario, Canada

Beatrice Foods Canada, Ltd., 259 Kingstreet East, Suite 510, P.O. Box 1503, Kingston, Ontario, Canada K7L 3B1

Beatrice Foods Ontario, Ltd., 185 Dunlop Street, East, Barrie, Ontario, Canada L4M 1B2

Colonial Cookies, Ltd., 135 Otonabee Drive, Kitchener, Ontario, Canada N2C 1L7

Converters Ink Co. (Canada), Ltd., 133 Cartwright Avenue, Toronto, Ontario, Canada M6A 1V4

Culligan of Canada, Ltd., Sheridan Park, Mississauga, Ontario, Canada L5K 1A5

Day-Timers of Canada, Ltd., 4875 Kent Avenue, Niagara Falls, Ontario, Canada L2E 6X6

Metallic Lubricants, Ltd., 24 Jefferson Avenue, Toronto, Ontario, Canada M6K 1Y4

Melnor Manufacturing, Ltd., 80 Morton Avenue, East, Brantford, Ontario, Canada N3J 5T3

1. Parent Corporation and address of principal office: Black Hills Packing Co., P.O. Box 2130, Rapid City, South Dakota 57701.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation: Black Hills Trucking Co., P.O. Box 2130 Rapid City, South Dakota 57701, Incorporated in the State of South Dakota.

1. Parent corporation and address of principal office: Columbian Cutlery Co., Inc., a Pennsylvania corporation, P.O. Box 123, 440 Laurel St., Reading, PA 19603.

2. Wholly-owned subsidiaries which will participate in the operations, and State of incorporation: Columbian Express Co., Inc. (Pennsylvania).

1. Parent corporation and address of principal office: Dixico Incorporated, 1415 South Vernon, Dallas, Texas 75224.

2. Wholly-owned subsidiaries and divisions which will participate in the operations and address of their respective principal offices:

- (a) Flexible Packaging Division, 1300 South Polk, Dallas, Texas 75224
- (b) Ink/Coating Division, 4525 Joseph Hardin Drive, Dallas, Texas 75236
- (c) Capitol Plastics of Ohio Division, 333 Van Camp Road, Bowling Green, Ohio 43402
- (d) Richmond Division, Colton and Opal, Redlands, California 92373
- (e) Plastic Industries Division, 12400 Industry Street, Garden Grove, California 92373
- (f) Polytube Division, 275 Welton Street, Hamden, Connecticut 06501

1. The parent corporation is Giant Eagle Markets, Inc., 101 Kappa Drive, Pittsburgh, Pennsylvania 15238.

2. The wholly-owned subsidiaries which will participate in the operations and their states of incorporation:

- a. The Tamarkin Company—Ohio
- b. Project Six Inc.—Ohio
- c. Valu King Drugs—Ohio

1. Parent corporation and address of principal office: Great Lakes Canning, Inc., 1882 East Highland Road, Twinsburg, OH 44087.

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation: (i) Soft Drink Carriers, Inc., Ohio.

1. Parent corporation and address of principal office: West Point, Pepperell, Inc., 400 West Tenth St., West Point, GA 31833.

2. Wholly-owned subsidiary which will participate in the operations, and address of principal office: West Point Pepperell Transportation Company, 400 West Tenth St., West Point, GA 31833.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-13906 Filed 5-20-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311 (Sub-4)]

Motor Carrier Fuel Surcharge Program; Modification

AGENCY: Interstate Commerce Commission.

ACTION: Decision responding to various petitions.

SUMMARY: The Commission denies petitions for modification or exemption, relief from compliance and reconsideration, and grants, in part, a petition seeking relief from the more

stringent accounting burdens associated with avoiding dual compensation as authorized in the decision served October 8, 1981. (46 FR 50070, October 9, 1981).

EFFECTIVE DATE: Because this decision is interpretive, it shall become effective on May 21, 1982.

FOR FURTHER INFORMATION CONTACT: Lee Alexander (202) 275-7723, Ted Kalick (202) 274-6446, Alan Rothenberg (202) 275-7597, Richard Shullaw (202) 275-7639.

SUPPLEMENTARY INFORMATION: On December 14, 1981, Contract Courier Services, Inc. filed a petition for extraordinary relief seeking a modification of or exemption from the uniform application of the Commission's mileage reimbursement factor. On February 16, 1982, National Association of Specialized Carriers, Inc., filed a petition seeking clarification concerning avoidance of dual compensation. The Owner-Operator Independent Driver's Association of America (OOIDA) filed a petition for reconsideration. On March 25, 1982, Kendrick Trucking Corp. filed a petition seeking relief from compliance with the mileage reimbursement method.

Exceptions to Reimbursement Formula

Contract Courier Services uses passenger-type vehicles to deliver small packages of primarily pharmaceuticals to hospitals. All of its couriers are owner-operators. Vehicles average 30 to 35 miles-per-gallon. Petitioner requests that the Commission reconsider present interpretations to authorize the use of a 25 MPG factor rather than the mandatory 5 MPG factor, or to publish alternative miles-per-gallon factors for a variety of vehicle sizes.

Kendrick uses ordinary pick-up trucks in a portion of their operation. They average 10 miles-per-gallon and request authority to reimburse owner-operators at one-half the amount prescribed by the Commission.

As noted in the October 8, 1981, decision and clarified on October 30, we are aware that owner-operators occasionally are involved in operations where average fuel efficiency exceeds 5 miles-per-gallon. The petitions fail to respond to our earlier conclusion that it is a practical impossibility to give effect to the diverse forms of transportation, many with fuel efficiencies above or below the Commission average. Although the proposal to publish alternative MPG factors for a variety of vehicle sizes has superficial appeal, it does not address the case of owner-operators who purchase fuel at prices above or below the Commission

average, or heavy haulers and others who may get less than 5 MPG. We reiterate our earlier conclusion that the current method of mandatory uniform averages is essential to assure that owner-operators are adequately reimbursed for their increased cost of fuel. We also refer petitioner to page 5, footnote 2 of the October 8th decision where we indicated that carriers may avoid the mileage reimbursement system by, in effect, paying for fuel costs above 63.5 cents per gallon. This remedy may be appropriate for petitioner, given the high mileage factor.

Dual Compensation

In their petition, National Association of Specialized Carriers questions whether carriers who take the initial fold-in may avoid dual compensation by subtracting fuel reimbursement payments, rather than the fold-in amount, from the gross revenue to determine owner-operator compensation.

In our decision of October 8, 1981, we identified the dual compensation problem and offered possible solutions. The fold-in, which is permissive, generates revenue which may be retained by the carrier to reimburse owner-operators for increased fuel costs. The method used by carriers to accomplish this result has not been mandated. At the time, we specifically rejected the proposal of the Common Carrier Conference—Irregular Route, to subtract the fuel payments from the gross revenue subject to the split. Our reasoning was that this method could discourage carriers from taking the fold-in, thus, in effect, depriving owner-operators of a percentage of the fuel payment.

After further consideration, we find that carriers whose rates have been subject to the surcharge, who folded in enough of the surcharge to cover fully the per mile payment and who update their rates based on future increases in the reimbursement factor may deduct the fuel payment to the owner-operator from the gross revenue subject to the split. This amount would, on average, be equivalent to the fold-in amount.

These precautions will insure against the problem identified in our October 8, 1981 decision. The Office of Compliance and Consumer Assistance will monitor closely the carrier's method of avoiding dual compensation to assure that owner-operators are adequately reimbursed. If there are complaints, the burden will be on the carrier to establish that they have met the above conditions for using the simplified accounting procedures.

OOIDA Petition

OOIDA proposes an immediate moratorium on the decision to modify the fuel surcharge program for one year. The revenue-based surcharge would be maintained during this period. The arguments raised by OOIDA have been fully addressed in numerous decisions. We continue to believe that the mileage-based reimbursement factor equitably balances the interests of owner-operators, carriers, and shippers. The mileage-based program is in effect and shall remain in effect.

It is ordered: The petitions filed by Contract Courier Services, Kendrick Trucking Corp., and OOIDA are denied. The petition by the National Association of Specialized Carriers is granted to the extent discussed above.

Because this decision is interpretive, it shall become effective on May 21, 1982.

Decided: May 14, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, and Andre.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-13904 Filed 5-20-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the *Federal Register* of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the *Federal Register* issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform

the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office (202) 275-7326.

Volume No. OP 2-97

Decided: May 12, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF-252 (Sub-10), filed April 27, 1982. Applicant: CHI-CAN FREIGHT FORWARDING, LTD., 3600 S. Western Ave., Chicago, IL 60609. Representative: H. Barney Firestone, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, 312-263-1600. As a freight forwarder, in connection with the transportation of general commodities (except classes A and B explosives, household goods, and commodities in bulk), between ports of entry on the international boundary line between the U.S., and Canada in MN, MT, and ND, on the one hand, and, on the other, points in CA.

MC 16513, (Sub-30), filed April 30, 1982. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Ave., Pennsauken, NJ 08110. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312, 703-750-1112. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Lever Brothers Company, of New York, NY.

MC 71772, (Sub-8), filed April 2, 1982. Applicant: MT. PLEASANT TRANSFER, INC., P.O. Box 267, Columbia Hwy, Mt. Pleasant, TN 38474. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35103, 205-2513-223. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Mt. Pleasant and Memphis, TN: (1) from Mt. Pleasant over U.S. Hwy 43 to Lawrenceburg, TN, then over U.S. Hwy 64 to Memphis, and return over the same route, serving Lawrenceburg, TN for purposes of joinder with applicant's existing regular route authority, (2) from Mt. Pleasant over TN Hwy 20 to junction Interstate Hwy 40, at or near Jackson, TN, then over Interstate 40 to Memphis and return over the same route, and (3) serving all intermediate points on routes (1) and (2) above.

Note.—Applicant may tack with existing authority.

MC 107522, (Sub-9), filed April 30, 1982. Applicant: PEAK TRANSFER CO., 57 Hathaway St., Wallington, NJ 07057. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. (212) 239-4610. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with United Ebony Trans., Inc., of Wallington, NJ.

MC 108633, (Sub-19), filed April 30, 1982. Applicant: BARNES FREIGHT LINE, INC., P.O. Box 800, Carrollton, GA 30117. Representative: Larry M. Treadaway, (same address as applicant), 404-832-3581. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, MS, LA, TN, and GA, on the one hand, and, on the other, points in CA.

MC 111672, (Sub-20), filed April 30, 1982. Applicant: R & M TRUCK LINE, INC., P.O. Box 422, Oskaloosa, IA 52577. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting *malt beverages*, between points in Franklin

County, MO, on the one hand, and, on the other, points in the U.S., (except AK and HI).

MC 147402, (Sub-13), filed April 19, 1982. Applicant: WACO DRIVERS SERVICE, INC., 138 Atando Ave., Charlotte, NC 28206. Representative: Carl L. Helms, (same address as applicant), 704-377-5410. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Hanover Brands, Inc., of Hanover, PA.

MC 147692 (Sub-1), filed April 15, 1982. Applicant: SUMMIT EXPRESS, INC., d.b.a. SUMMIT TRANSPORTATION, 101 N. Seaside Ave., Terminal Island, CA 90731. Representative: Rodney Joseph Roy, (same address as applicant), 213-519-1252. Transporting *petroleum and petroleum products*, between points in CA and AZ.

MC 161392, filed April 6, 1982. Applicant: A & C TRUCKING, INC., P.O. Box 54, Griffithville, AR 72060. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036, 202-785-0024. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with C & A Enterprises, Inc., of Griffithville, AR.

MC 161522, filed April 15, 1982. Applicant: BIL-MAC EXPRESS, INC., 735 Oriole Ave., Park Ridge, IL 60068. Representative: William H. Shawn, Suite 501, 1730 M St. NW, Washington, DC 20036, 202-296-2900. Transporting *general commodities* (except classes A and B explosives and household goods), between points in (1) IL, IN, MI, WI, IA, MN, OH, and MO, and (2) IL, IN, MI, WI, IA, MN, OH, and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161563, filed April 19, 1982. Applicant: A E CONSOLIDATED, INC., 184 Franklin Turnpike, Mahwah, NJ 07430. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, 212-239-4610. Transporting *household goods*, between points in NJ and NY.

MC 161572, filed April 19, 1982. Applicant: RIVER LINE TRANSPORT COMPANY, P.O. Box 426, Hennepin, IL 61327. Representative: Peter A. Greene, 1920 N St. NW, Suite 700, Washington, DC 20036, 202-331-8800. Transporting *fertilizer*, between points in the U.S. (except AK and HI), under continuing contract(s) with Mobil Chemical Company, of Richmond, VA.

MC 161642, filed April 23, 1982. Applicant: J & M DELIVERY & CAR

SERVICE, INC., 465 Barel Ave., Carlstadt, NJ 07072. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, (201) 992-2200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Pryor Corporation, of Carlstadt, NJ.

MC 161672, filed April 26, 1982. Applicant: BONNIE BURKE, d.b.a. BURKE GRAIN COMPANY, Box 241, Isabel, SD 57633. Representative: Thomas J. Simmons, 1000 East 41st St., Box 480, Sioux Falls, SD 57101, 605-339-3629. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Corson, Dewey, Harding, and Perkins Counties, SD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161812, filed May 3, 1982. Applicant: DIXIELAND EXPRESS, INC., Airport Cargo Terminal, Birmingham, AL 35212. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, (205) 254-3880. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, MS, TN, GA, FL, NC, and SC.

MC 161813, filed May 3, 1982. Applicant: WAYNE & MARILYN MITCHELL, d.b.a. MITCHELL TRUCKING, P.O. Box 921, Bogalusa, LA 70426. Representative: Jack L. Schiller, 123-60 83rd Ave., Kew Gardens, NY 11415, (212) 283-2078. Transporting (1) *building materials* between points in Pearl River County, MS, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MO, OK, TN, and TX; and (2) *those commodities* which because of their size or weight require the use of special handling or equipment between points in MS, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MO, OK, TN, and TX.

Volume No. OP4-175

Decided: May 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 147216 (Sub-7), filed May 7, 1982. Applicant: CARL KLEMM, INC., 1126 Terry Lane, De Pere, WI 54115. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722-2848. Transporting *petroleum and petroleum products*, between points in WI, on the one hand, and, on the other, points in MI.

MC 153516 (Sub-3), filed May 7, 1982. Applicant: INTERSTATE EXPRESS,

INC., P.O. Box 37144, Millard, NE 68137. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521, (312) 629-2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Packerland Packing Company, Inc., of Green Bay, WI, Spencer Beef Division of Land O'Lakes, Inc., of Arden Hills, MN, American Stores Packing Co., of Lincoln, NE, and Hillshire Farm Co., of New London, WI.

MC 157836 (Sub-1), filed May 6, 1982. Applicant: JIM SCHAUER, d.b.a. BASELINE COMPANY, 5660 Gregory Rd., Dexter, MI. Representative: Paul M. Ross, 3104 S. Cedar, Lansing, MI 48910, (517) 394-4220. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in U.S., under continuing contract(s) with Aeschliman Equipment Co., of Whitmore Lake, MI, Equipment Brokering Specialists Co., and Sweepsters Equipment Co., both of Dexter, MI, Universal Hydro-Test Corp., American Broach and Machine Co., and Bennett Installation Corp., all of Ann Arbor, MI.

MC 160466 filed May 6, 1982. Applicant: FOLSOM TRUCKING COMPANY, INC., 101 Folsom Rd., P.O. Box 98, McCalla, AL 35111. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209-4786, (205) 942-9116. Transporting (1) *pipe*, (2) *metal and metal products*, (3) *fabrications*, (4) *chemicals*, (5) *machinery*, (6) *building and construction materials*, and (7) *those commodities* which because of their size or weight require the use of special handling or equipment, between points in Jefferson, Shelby, Walker, Blount, and St. Clair Counties, AL, on the one hand, and, on the other, those points in the U.S. in and east of NM, CO, WY, and MT.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 13908 Filed 5-20-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer

to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from Applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be

construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-96

Decided: May 12, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 161692, filed April 27, 1982. Applicant: CARLTON JOSEPH BEDDOWS, 2201 Windsor Lake Drive, Minnetonka, MN 55343. Representative: Carlton Joseph Beddows (same address as applicant), 612-545-3899. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 161723, filed April 28, 1982. Applicant: MID-MICHIGAN FREIGHT BROKERS, INC., P.O. Box 290, Portland, MI 48875. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., N.W., Washington, DC 20036, 202-223-5900. As a *broker of general commodities*, (except household goods), between points in the U.S. (except AK and HI).

MC 161772, filed April 30, 1982. Applicant: ROBERT ASHWORTH, 29447 Oakley, Livonia, MI 48154. Representative: Robert R. S. Ashworth (same address as applicant), 313-427-2245. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers*, and *other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP 3-074

Decided: May 14, 1982.

By the Commission, Review Board No. 2 Members Carleton, Fisher, and Williams.

MC 130654 (Sub-1), filed May 4, 1982. Applicant: PACIFIC RELOCATING SERVICES, INC., 1415 W. Torrance Blvd., Terrance, CA 90501. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, (202) 785-0024. As a *broker of general commodities*, (except household goods), between points in the U.S. (except AK and HI).

MC 161724, filed April 29, 1982. Applicant: CECIL A. WOOD, d.b.a. C. A. WOOD TRUCKING CO., 621 E. 5th Ave., Denver, CO 80203. Representative: Cecil A. Wood (same address as

applicant), (303) 458-1220. Transporting food and other edible products and byproducts intended for human consumption (except alcoholic beverages and drugs), agricultural limestone and fertilizers, and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 161784, filed April 30, 1982. Applicant: TIM HOERLER, DAN MAJESKI and K. S. HOERLER, d.b.a. K. S. HOERLER & SONS, 1501 Commerce Avenue, Lot 183, Haines City, FL 33844. Representative: James Robert Evans 145 W. Wisconsin Avenue, Neenah, WI 54956, (414) 722-2848. Transporting food and other edible products and byproducts intended for human consumption (except alcoholic beverages and drugs), agricultural limestone and fertilizers and other soil conditions, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161804, filed May 3, 1982. Applicant: BEST DELIVERY SERVICE, INC., 298 Bennington St., East Boston, MA 02128. Representative: Mary E. Kelley, 22 Stearns Ave., Medford, MA 02155, (617) 396-4090. Transporting shipments weighing 100 pounds or less, if transported in a vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 161805, filed May 3, 1982. Applicant: LEE SIMPSON, d.b.a. SIMCO TRANSPORTATION SERVICES, INC., P.O. Box 100, I-80 and Hwy 50, Papillion, NE 68046. Representative: Lee Simpson, 1117 Delmar St., Papillion, NE 68046, (402) 331-6807. As a broker of general commodities (except household goods), between points in the U.S.

MC 161844, filed May 5, 1982. Applicant: J. T. DUNN & ASSOCIATES INC., 556 East 2100 South, Salt Lake City, UT 84106. Representative: Harvey Dunn (same address as applicant), (801) 486-3719. Transporting, for or on behalf of the U.S. Government, general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Volume No. OP4-174

Decided: May 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 152896 (Sub-1), filed May 6, 1982. Applicant: WHEELER & SONS TRUCKING, 1607 Oro Dam Blvd., West, Oroville, CA 95965. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89791, (702) 882-5649.

Transporting, for or on behalf of the United States Government, general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the United States (except AK and HI).

MC 158286 (Sub-8), filed April 15, 1982. Applicant: M.T. TRUCK LINE, INC., 4947 W 173rd St., Country Club Hills, IL 60477. Representative: James C. Hardman, 33 N LaSalle St., Chicago, IL 60602, (312) 236-5944. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between Plainfield, Cartersburg, Clayton, Amo, Coatesville, and Fillmore, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be addressed to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

Note.—The purpose of this application is to substitute motor carrier service for abandoned rail carrier service.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-13907 Filed 5-20-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-285N)]

Rail Carriers; Conrail Abandonment Between Dana and Paris, IL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts SIRS, Inc., which will operate over 2 miles of railroad in the City of Shelbyville, Shelby County, IL from 49 U.S.C. Subtitle IV.

DATES: Exemption effective on May 21, 1982. Petitions to reopen must be filed by June 10, 1982.

ADDRESSES: Send pleadings to:
(1) Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423
(2) Petitioner's Representative, Dove & Dove, 151 South Morgan Street, Shelbyville, IL 62565.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTAL INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact: TS

Infosystems, Inc. Room 2227, 12th & Constitution Avenue NW., Washington, DC 20423, 289-4357—DC Metropolitan Area, (800) 424-5403, toll free for outside the DC area.

Decided: May 13, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Commissioner Simmons did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-13905 Filed 5-20-82; 8:45 am]
BILLING CODE 7035-01-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in Room 4121, Department of the Treasury, 15th Street and Pennsylvania Avenue, Washington, D.C. on June 22, 1982 beginning at 1:00 p.m. and on June 23, 1982 beginning at 8:00 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B) and to review the May 1982 Joint Board examinations in order to make recommendations relative thereto, including the minimum acceptable pass score. In addition, there will be a discussion concerning the Joint Board's examination program.

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-462) has been made that the portions of the meeting dealing with the discussion of questions which may appear on the Joint Board's examinations and the review of the May 1982 Joint Board examinations fall within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, section 552(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with the discussion of the Joint Board examination program will commence at 1:30 p.m. on June 23, 1982, and will continue as long as necessary to complete the discussion but not beyond 5 p.m. of that day. This portion of the meeting will be open to the public as space is available. Time permitting, after discussion of the program by Committee members, interested persons may make

statements germane to this subject. Persons wishing to make oral statements are requested to notify the Committee Management Office in writing prior to the meeting in order to aid in scheduling the time available, and should submit the written text, or, at a minimum, an outline of comments they propose to make orally. Such comments will be limited to ten minutes in length. Any interested person also may file a written statement for consideration by the Joint Board and Committee by sending it to the Committee Management Officer. Notifications and statements should be mailed no later than June 15, 1982 to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C. 20220.

Dated: May 18, 1982.

Leslie S. Shapiro,

Advisory Committee Management Officer,
Joint Board for the Enrollment of Actuaries.

[FR Doc. 82-14008 Filed 5-20-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 5-82]

Privacy Act of 1974; Modified System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to modify an existing system of records entitled "Freedom of Information Act/Privacy Act (FOIA/PA) Records, JUSTICE/JMD-019," which was most recently published on January 10, 1980 in Federal Register Volume 45, page 2231.

The system notice is being revised to reflect that disks will be used to store and retrieve certain summary data extracted from FOIA/PA request files. The data, i.e., date of request, requester's name, Justice Management Division (JMD) staff assigned the request, etc., will be used to track and follow up on the assignment of requests for JMD records. Appropriate sections of the notice have been revised to reflect the automation of this summary data. They are: "Categories of records in the system," "Storage," "Retrievability," and "Safeguards."

Further, certain clarifying and editorial changes have been made to other sections of the notice. They are: "System name," "Categories of individuals covered by the system," "Routine uses of records * * *," "Retention and disposal," "System manager(s) and address," and "Record access procedures." In addition, the

paragraph which indicates the system is an exempt one has been reinstated. The paragraph was inadvertently dropped from the notice when it was republished as part of an annual publication.

The Office of Management and Budget (OMB) requires a 60-day period to review certain changes to records systems. Accordingly, OMB has been provided a report on this proposal. In addition, a copy of the report has been provided to the President of the Senate and the Speaker of the House of Representatives in accordance with 5 U.S.C. 552a(o).

Comments may be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received, the modified system will be adopted without further notice in the Federal Register. No oral hearings are contemplated.

Dated: May 12, 1982.

Kevin D. Rooney,

Assistant Attorney General for
Administration.

Justice/JMD-019

SYSTEM NAME:

Freedom of Information Act/Privacy Act (FOIA/PA) Records.

SYSTEM LOCATION:

U.S. Department of Justice, Justice Management Division, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have made a request to access any Justice Management Division (JMD) record relating to JMD functional responsibilities and activities; individuals who have made a request to access or correct records pertaining to themselves which they believed to be in JMD systems of records; and persons who, on behalf of another individual, have made a request to access or correct that individual's records which they believed to be in JMD systems of records. Such requests were made pursuant to the Freedom of Information Act, the Privacy Act, or both.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual records contain Freedom of Information Act and Privacy Act requests for JMD records, responses thereto and, where applicable, a copy of the records requested and any other correspondence or internal memoranda related to the processing of these requests. Automated records (stored on disks) contain summary data such as the

date of request, name of requester, addressee, subject of request, date request was received, JMD staff to which request was assigned, date request was assigned, date response was due, control number, and date of response.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101 and is maintained to implement the provisions of 5 U.S.C. 552 and 552a and the provisions of 28 CFR 16.1 et seq. and 28 CFR 16.40 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system may be disseminated as a routine use of such record as follows: (1) A record may be disseminated to a Federal agency which furnished the record for the purpose of permitting a decision as to access or correction to be made by that agency, or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate federal, state, local, or foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records contained in a system of records maintained by the Justice Management Division.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the

National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual requests records are stored in locked safes. Automated requests records are stored on disks.

RETRIEVABILITY:

Requests records are filed and retrieved under the names of those persons and individuals identified under the caption "Categories of individuals covered by the system." These records are retrieved by Department personnel to perform their duties, e.g., when subsequent requests are made by the public for copies of their previous requests and responses thereto, or when the requester submits a supplemental request or information clarifying a previous request.

SAFEGUARDS:

Access to requests records is limited to Department of Justice personnel who have need for the records to perform their duties. Request files (manual records) are stored in locked safes. All records are stored in an office which is occupied during the day and locked at night.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with items 16 through 18 and 25 through 28 of General Records Schedule 14.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General for Administration, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the System Manager.

RECORD ACCESS PROCEDURES:

A request to access a record in this system shall be made in writing to the system manager named above with the envelope and letter clearly marked "Freedom of Information Act request" or "Privacy Act request." The requester shall include the full name of the person who made a request, date of that request, name of official to whom the request was addressed, and subject of the request. Where applicable (Title 28 of the Code of Federal Regulations, § 16.41(b) (2) and (3)), the requester shall also include the current address, date and place of birth, and notarized signature of the individual requesting a copy of his/her previous request and

response thereto. Where applicable (Title 5 of the United States Code, section 552a(b)), the requester shall also include a written statement authorizing the Department to release these records to a third party. In addition, the requester shall provide his return address.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The sources of information contained in this system are the individuals and persons making requests, the systems of records searched in the process of responding to requests, and other agencies referring requests for access to or correction of records originating in the Justice Management Division.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Records secured from other systems of records have been exempted from the Privacy Act provisions to the same extent as the systems of records from which they were obtained. The Attorney General has also exempted certain categories of records in this system from subsections (c)(3) and (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the Federal Register.

[FR Doc. 82-13942 Filed 5-20-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-82-38-C]

Angela Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Angela Mining Company, P.O. Box 87, Kingwood, West Virginia 26537 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 3 Mine (I.D. No. 46-02215) located in Preston County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be

installed on the mine's electric face equipment.

2. The normal mining height of the Upper Freeport coal seam ranges from 44 to 48 inches from roof to pavement. Undulating roof conditions reduce the mining height in many areas to 38 inches.

3. Petitioner states that the installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies:

a. Are striking, dislodging and damaging roof bolts, steel plates and wooden headers;

b. Impair the visibility of the equipment operator, increasing the chances of an accident;

c. Reduce the size of the operating compartment, causing operator fatigue and uncomfortable working positions.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 21, 1982. Copies of the petition are available for inspection at that address.

Dated: May 14, 1982.

Patricia W. Silvey,
Acting Director, Office of Standards,
Regulations and Variances.

[FR Doc. 82-13992 Filed 5-20-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-43-C]

Bartley & Bartley Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Bartley & Bartley Coal Company, Box 142, Rockyhouse, Kentucky 41561 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 4 Mine (I.D. No. 15-12650) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that methane monitors be installed on any electric face cutting equipment, continuous miner, longwall face equipment or loading machine.

2. Petitioner states that methane has not been detected, monitored or sampled by anyone in excess of normal

air inside this non-gassy mine compared to outside air. This is a hillside mine located above the water table.

3. Petitioner further states that malfunctions, false indications and defects commonly occurring in the methane monitors due to power fluctuations, vibrations, etc. tend to give employees a false sense of security.

4. As an alternative method, petitioner proposes that detection for methane will be done by qualified persons using methane detectors, flame safety lamps, air samples and detectors for other gases.

5. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 21, 1982. Copies of the petition are available for inspection at that address.

Dated: May 12, 1982.

Patricia W. Silvey,
*Acting Director, Office of Standards,
Regulations and Variances.*

[FR Doc. 82-13993 Filed 5-20-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-40-C]

Brown Badgett Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Brown Badgett Coal Company, Inc., P.O. Drawer 617, Central City, Kentucky 42330 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Busick Mine (I.D. No. 15-09311) located in Muhlenberg County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The minimum coal height is approximately 51 inches with undulating top and bottom conditions.

3. Petitioner states that application of the standard would result in a diminution of safety for the miners affected because:

a. The equipment operator's compartment is restricted by the canopy and the operator cannot use his or her arms and legs in a proper manner to safely operate and control the machine; and,

b. The operator's vision is hampered by the canopy, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 21, 1982. Copies of the petition are available for inspection at that address.

Dated: May 14, 1982.

Patricia W. Silvey,
*Acting Director, Office of Standards,
Regulations and Variances.*

[FR Doc. 82-13994 Filed 5-20-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-44-C]

Carbon Fuel Co.; Petition for Modification of Application of Mandatory Safety Standard

Carbon Fuel Company, 1300 One Valley Square, Charleston, West Virginia 25301 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Morton Mine (I.D. No. 46-01329) located in Chesapeake County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that application of the standard to the intake airways of the North Shaft Mains starting at the No. 2 Shaft Fan and extending to the mouth of the First West Section would result in a diminution of safety because deterioration of the roof and roof support system in this area has rendered these intake airways unsafe to travel. Petitioner believes that there is no safe or reasonable way to resupport the deteriorated roof.

3. As an alternative method, petitioner proposes to danger off all accesses to the North Shaft entries and establish

check points at the mouth of the First West Section where the North Shaft intake airways connect with the Number Three North Intake Escapeway to determine that the air is traveling in the proper direction and to test the quality and quantity of the intake air. Petitioner further states that the proposed alternative will provide the same degree of safety for the miners affected as that afforded by the standard and that the modification requested will not affect the fresh air intake or track escapeway.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 21, 1982. Copies of the petition are available for inspection at that address.

Dated: May 12, 1982.

Patricia W. Silvey,
*Acting Director, Office of Standards,
Regulations and Variances.*

[FR Doc. 82-13995 Filed 5-20-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-35-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241, has filed a petition to modify the application of 30 CFR 75.1704-2(a) (escapeway routes; examination; escapeway maps; drills) to its Mathies Mine (I.D. No. 36-00963) located in Washington County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all travelable passageways designated as escapeways be located to follow the safest direct practical route to the nearest mine opening suitable for the safe evacuation of miners.

2. As an alternative method, petitioner proposes an escapeway plan that calls for the primary (intake) escapeway to be routed to the Linden Portal and for the secondary (return) escapeway to be directed to the Kerr Shaft. This proposal adds the Thomas Portal to the escapeway plan to be used in the event the Linden Portal becomes unsuitable or

unavailable, such as when the Linden elevator malfunctions.

3. Petitioner states that the alternative method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 21, 1982. Copies of the petition are available for inspection at that address.

Dated: May 12, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-13996 Filed 5-20-82; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-89 Exemption Application No. D-2684]

Exemption From the Prohibitions for Certain Transactions Involving the Frederick E. Fried, M.D., P.C., Profit Sharing Plan, Located in Medfore, Oreg.

AGENCY: P&WBP, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the sale of certain items of artwork (the Artworks) by the Frederick E. Fried, M.D., Profit Sharing Plan (the Plan) to Frederick E. Fried, M.D. (Fried), a disqualified person with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 5, 1982, notice was published in the *Federal Register* (47 FR 5510) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(a)(1)(A) through (E) of the Code, for the transaction described in an application filed by Fried. The notice set

forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. Because Fried is the sole owner of Frederick E. Fried, M.D., P.C., the sponsor of the Plan, and is the sole participant of the Plan, it was determined that the publication of the notice of pendency would serve as notice to interested persons. No requests for a hearing were received by the Department, however, one unfavorable comment was received. The commentator stated that to grant the exemption would mean that taxpayers in general would underwrite a plan loss caused by a plan sponsor's own decision. The applicant represents that a profit for the Plan will be realized on the sale of the Artworks and that the value of the Artworks has been determined by an independent appraiser. The Department has considered the comment received together with the applicant's representations and has determined that the exemption should be granted as proposed. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; 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 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 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the 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 the Artworks by the Plan to Fried, provided that the sales price is at least the fair market value of the Artworks at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 18th day of May, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-13998 Filed 5-20-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-88; Exemption Application No. D-2311]

Exemption From the Prohibitions for Certain Transactions Involving the Commerce Southwest, Inc. and Subsidiaries Employees Retirement Plan Located in Dallas, Tex.

AGENCY: P&WBP, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption would permit: (1) The sale of real property (the Land) and improvements (the Building) to the Commerce Southwest, Inc. and Subsidiaries Employees Retirement Plan (the Plan) by the National Bank of Commerce of Dallas, Texas (the Bank), a

party in interest with respect to the Plan; and (2) the subsequent leaseback of the Land and Building by the Plan to the Bank.

FOR FURTHER INFORMATION CONTACT:

Louis Campagna of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

On November 20, 1981, notice was published in the *Federal Register* (46 FR 57178) 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 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for transactions described in an application filed by the Commerce Southwest, Inc., the sponsor of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. 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 satisfied the notification to interested persons provisions as set forth in the notice of pendency. No requests for a hearing were received by the Department, however, the Department received one comment. The commentator claimed that the entire transaction could be viewed as a loan by the Plan to the Bank at below market rates, that the Plan would be concentrating a high percentage of its assets (21.6%) in one investment, that the rate of return on the investment was low compared to other investments and that the expected appreciation of the Land and Building is highly speculative as the Land and Building comprise special purpose properties with limited market appeal.

The Bank was asked by the Department to respond to the comments of the commentator. In response the Bank stated that the transaction is not in the form of a loan as the Plan is

receiving a valuable asset rather than a promise to pay from the Bank. In addition, the Bank will arrange for a \$25,000 deposit to secure its rental obligations as well as guarantee that the Plan will receive a certain minimum amount in the event of a sale of the Land and Buildings. The Bank also stated that the investment of 21.6% of the assets of the Plan in the transaction is not excessive and that in coming years because of additional Employer contributions to the Plan the percentage of the assets of the Plan involved in the transactions should decrease. With respect to the comment that the rate of return to the Plan is low compared to other investments available to the Plan, the Bank stated that the rate of return given in the notice of pendency of 10% is based on the rental income to the Plan and does not take into account the expected appreciation of the Land and Building. With respect to the comment that the expected appreciation of the Land and Building is highly speculative because of the special purpose nature of the properties, the Bank stated that office and warehouse facilities are among the most adaptable types of properties to be found anywhere. Furthermore, the Bank stated that historical data with respect to investments of this type and the geographic area in which the Land and Building is situated indicates that the property will appreciate. In addition, Joe Foster Appraisal Services, Inc., an independent appraiser from Dallas, Texas, represented that the Land and Building is located in one of Dallas' most attractive industrial parks and the Land and Building is readily adaptable to the needs of other prospective tenants and buyers.

Mr. Lovell M. Turner (Turner), a licensed real estate broker, who is independent of the parties to the transactions, has examined the proposed sale of the Land and Building to the Plan by the Bank and subsequent lease of the Land and Building by the Plan to the Bank and has determined that the proposed transactions are protective and in the interests of the Plan and at least as favorable to the Plan as the Plan could obtain in a similar transaction with an unrelated party. Turner will also monitor the lease of the Land and Building by the Plan to the Bank to ensure compliance with all terms and conditions of the lease. Furthermore, rentals will be adjusted every five years to reflect the fair market rental value of the Land and Building. Because of these independent safeguards, the Department believes the Plan is adequately protected and that

the proposed transaction are in the best interests of the Plan. Therefore, the Department has decided to grant the exemption as proposed. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(10)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the

entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) the sale of the Land and Building by the Bank to the Plan, provided that the sales price is not greater than the fair market value of the Land and Building; and (2) the lease of the Land and Building by the Plan to the Bank, provided the terms and conditions of the lease are at least as favorable to the Plan as the Plan could obtain in an arm's length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 18th day of May 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-13987 Filed 5-20-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2630]

Proposed Exemption for Certain Transactions Involving the Alaska Electrical Pension Fund Located in Anchorage, Alaska

AGENCY: P&WBP, 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: (1) Retroactively and prospectively the leasing of office space by the Alaska Electrical Pension Fund (the Plan) to various tenants who provide a wide range of services to the Plan (the Service Provider(s)), and (2)

retroactively the extension of credit between the Plan and Steve Noey and Associates, Ltd. (Noey) one of the Service Providers. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Service Providers, Noey and other persons participating in the transactions.

DATE: Written comments must be received by the Department on or before July 7, 1982.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption involving the leasing arrangements would be effective from July 1, 1976 and the exemption involving the extension of credit would be effective between the dates July 22, 1981 and August 14, 1981.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2630. 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: Paul R. Antsen of the Department, telephone (202) 523-6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 18, 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 multiemployer, jointly-trusted, defined benefit plan with approximately 3,100 participants all of whom are engaged in electrical construction trades. Contributing employers to the Plan include the National Electrical Contractors Association (NECA) members and non-members who have executed letters of assent to the main bargaining agreements between the Alaska Electrical Union (the Union) and the NECA. In addition, other major employers include certain municipalities and utilities who have separate agreements with the Union. The Plan has ten (10) trustees (the Trustees) divided equally between management and those representing the Union. As of December 31, 1980, the Plan had total assets of \$95,000,000. The assets were invested in a diversified portfolio consisting of the following major categories: land and commercial office buildings (22%), mortgages (19%), common stocks (15%) and long/short term fixed income securities (42%). Included among the Plan assets are two commercial office buildings (the Buildings) located in a growing business and shopping area of Anchorage, Alaska. Denali Towers South (Denali South) is a seven story office building in which some of the space is occupied by the other Alaska Electrical Trust Funds in accordance with the provisions of Prohibited Transaction Exemption 76-1 (41 FR 12740, March 26, 1976) and Prohibited Transaction Exemption 77-10 (42 FR 33918, July 1, 1977). Denali Towers North (Denali North) is a seventeen (17) story building located adjacent to Denali South. Denali North was completed and tenant occupancy commenced approximately March 1, 1980. The Buildings are owned solely by the Plan and neither building is subject to an outstanding mortgage or other indebtedness. The Buildings are considered by the Trustees to be an excellent investment because of the rate of return to the Plan generated by rental income and the increase in the appraised value of the Buildings with the passage of time.

2. The Plan has actively sought to lease space in both of the Buildings to unrelated tenants although several of the leasing arrangements have been with firms providing a wide range of services to the Plan—the Service Providers. Those existing service provider relationships include the provision of: architectural services, security services for the Buildings, real estate brokerage services, insurance

brokerage services, occasional legal services, sales and servicing agreements relating to mortgage investments by the Plan, occasional advertising and printing services, occasional real estate appraisal services and the writing and servicing of insurance policies required in the operation of the Plan. Some of the Service Providers are retained on an ongoing basis while others provide services which are of an intermittent or limited duration. The Service Providers currently occupy approximately five percent of the available rental floor space of the Buildings. With respect to each of the Service Providers the applicant makes the following representations: (1) Neither the Trustees nor the Plan Administrator has business or family relationships with any of the Service Providers; (2) both the service provider agreements and the leases are based on arm's-length negotiations and reflect fair market values for such usual and customary services in the local area; (3) the Trustees have independent control over the service provider relationships and may terminate such services where they are found inadequate; (4) while the terms of the leases are fixed, in the event of a default in rental payments prompt action would be taken by the Trustees through counsel or the property manager to terminate the leases and collect the rental in default. In summary, the applicant represents that the two transactions of leasing and the provision of services have been and will be treated independently of one another.

3. Originally the Plan had its own in-house staff property manager who negotiated leasing arrangements with prospective tenants. The Plan soon realized the need for professional assistance; therefore, it retained Ben Marsh Realty a/k/a Ben Marsh and Associates and Alaska Planning and Management, Inc. (Marsh) as an exclusive leasing agent on January 24, 1980. The leasing agreement was expanded to permit renegotiation and renewal of all existing leases when Marsh was retained under a formal property management agreement dated July 15, 1981. Marsh has been engaged in property management for six years and manages a number of other properties for clients unrelated to the Plan. Neither Marsh nor its employees have any business or family relationships with the Trustees or the Plan Administrator.

Marsh is one of the Service Providers currently leasing office space from the Plan in Denali North. The lease with Marsh was negotiated at a time in which the Plan had its own in-house staff property manager. The Trustees

represent that such lease was negotiated at arm's-length and on terms no less favorable to the Plan than terms available in an arm's-length transaction with an unrelated third party. The Trustees further represent that future lease negotiations with Marsh, or any future property manager, will always be negotiated by them, or their representative, and will be as favorable as an arm's-length transaction with an unrelated party.

4. Since the Trustees anticipate that future tenants of the Buildings may be or may become a service provider with respect to the Plan, they have requested that the relief afforded under this exemption cover unspecified future lease transactions. In addition, the Trustees represent that all future lease transactions would always be on terms no less favorable to the Plan than an arm's-length transaction with an unrelated third party. Therefore, for purposes of this exemption the term "the Service Provider(s)" includes any prior or future tenant which had, has or would have a party in interest relationship to the Plan based solely on the provision of services to the Plan.

5. Noey leased space from the Plan at Denali South on October 15, 1976 (the 1976 Lease) for a five-year term. Noey is in the business of providing real estate appraisals and estate appraisals and conducting feasibility studies for commercial office space. Prior to the expiration of the 1976 Lease, economic conditions caused Noey to restrict its operations and seek a modification of such lease with the Plan. A second lease was executed on October 3, 1980 in which the Plan also agreed to take in consideration for cancelling the 1976 Lease a promissory note (the Note) for the remaining rent due under the provisions of the 1976 Lease. The amount of the Note was \$19,398.12 plus twelve (12) percent interest. This action was considered to have been in the interest of the Plan since the alternative under the 1976 Lease would have been to evict Noey and institute suit. Such action is also represented to be customary and in the usual course of rental business under the circumstances. Subsequently, Noey was requested by the Plan to provide a feasibility study for a third office building to be located in the same area as the Buildings. Plan records disclose that Noey provided the services between July 22, 1981 and August 14, 1981 at a cost to the Plan of \$15,200. During this period Noey continued to make payments on the Note. Payments on the Note have at all times remained current and the final payment was made November 1, 1981.

6. The applicant represents that the past and future leasing arrangements with the Service Providers and extension of credit transaction involving Noey satisfy the statutory criteria of section 408(a) of the Act because:

a. The representations that the rental rates and terms charged to the Service Providers were and would be the same as those available to unrelated tenants are easily verified from the lease records of the Plan;

b. The negotiation of all future leases and the monitoring of existing leases has been delegated to a professional property manager who is independent of all officials of the Plan and the Service Provider tenants;

c. The types of services provided by the Service Providers (some of which are intermittent or of a limited duration) and the types of commercial leasing activities involved in this request are customary and usual in the marketplace;

d. The extension of credit transaction between Noey and the Plan was inadvertent, existed for only a short period of time, did not constitute any type of self dealing, and has now extinguished itself; and

e. The Plan Trustees represent that both transactions have been and will remain in the best interests of the participants and beneficiaries of the Plan.

Notice to Interested Persons

On or before June 7, 1982, notice of the proposed exemptions will be publicly posted in each employee organization hall and hiring hall where Plan participants and potential employees of employers who are obligated to make contributions to the Plan normally congregate, and will be mailed, postage prepaid to each employer association, the members of which make contributions to the Plan, and to each employee organization whose members are participants in the Plan. The notice will include a copy of this notice of pendency and will inform interested persons of their right to comment on the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility

provisions of section 404 of the Act, 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) of the Act and section 4975(c)(1)(E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the 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) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply: (1) Effective July 1,

1976 to the leasing of office space in the Buildings to the Service Providers; and (2) between July 22, 1981 and August 14, 1981 to the extension of credit between Noey and the Plan, provided:

(a) That the extension of credit transaction and each lease transaction which has taken place or will take place was and/or will be on terms no less favorable to the Plan than terms available in an arm's-length transaction with an unrelated third party.

b. The Plan maintains or causes to be maintained during the period of any leasing arrangement such records as are necessary to enable the persons described in paragraph (c) to determine whether the conditions of this exemption have been met except that (i) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such period and (ii) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the 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 (c) below.

c. Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) are unconditionally available at their customary location for examination during normal business hours by: (i) the Department or the Internal Revenue Service, (ii) Plan participants and beneficiaries, (iii) any employer of Plan participants and beneficiaries, (iv) any employee organization any of whose members are covered by the Plan, (v) any trustee of the Plan, or (vi) any duly authorized employees or representatives of a person described in subparagraphs (i) through (v) of this paragraph.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions that are the subject of the exemption.

Signed at Washington, D.C., this 18th day of May 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-13986 Filed 5-20-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3364]

Proposed Exemption for Certain Transactions Involving the RREEF Fund-II, Inc. Located in San Francisco, Calif.

AGENCY: P&WBP, 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 purchase of a shopping center by the RREEF Fund-II, Inc. (the Fund) from an unrelated party, and the assumption by the Fund of an existing lease to Von's Grocery Company (Von's), a party in interest with respect to one of the employee benefit plans participating in the Fund. The proposed exemption, if granted, would affect Von's, the Household Finance Corporation Pooled Investment Trust (the Plan) and other plans that have invested in the Fund.

DATE: Written comments must be received by the Department of Labor on or before July 2, 1982.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective September 12, 1977.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3364. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a) and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code. The proposed exemption was requested in an application filed on behalf of the RREEF

Corporation (RREEF), the Fund's investment manager, 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. Von's is an employer whose employees are covered by the Plan. The Plan is a qualified pension plan with approximately 24,519 participants. The Plan is one of several plans that invests in the Fund. As of July 1, 1981, the Plan had total assets with an estimated market value of approximately \$198,000,000.

2. The Fund is a corporation created on June 24, 1976, under the laws of the State of Delaware, that is exempt from income tax under the provisions of section 501(c)(2) of the Code. It is designed to afford plans, qualified under section 401(a) of the Code and thereby exempt from federal taxation under section 501(a) of the Code, the opportunity to diversify their portfolios by investing, through the Fund, in real properties. The Fund is engaged primarily in the business of acquiring, improving, operating and holding for investment income-producing property (as well as personal or mixed property connected therewith), including commercial, office and industrial property dispersed geographically throughout the United States.

3. The Fund is designed for investment by pension or profit-sharing plans, and the minimum investment in the Fund is \$150,000. At the present time, seven plans have subscribed to invest in the Fund. The total value of assets of the Fund determined as of December 31, 1981, was \$53,961,000, of which \$1,050,000 was invested by the Plan.

4. The powers of the Fund are exercised by or under the authority of the directors. The directors of the Fund are Messrs. Claude N. Rosenberg, Jr., Paul Sack, Alander F. Hogland and Johnson S. Bogart. Discretion over the investments of the Fund, within the limits of the investment objectives and

criteria of the Fund, has been assigned to RREEF, a corporation organized in January, 1975, under the laws of the State of California, primarily for the purpose of managing and operating real estate investment programs such as that of the Fund. RREEF is a registered investment adviser under the Investment Adviser's Act of 1940. Its address is 650 California Street, Suite 1800, San Francisco, California 94108.

5. The directors of RREEF are Messrs. Rosenberg, Sack, Hogland, Bogart, John D. Leland, Jr. and Joseph A. Mark. Investment decisions with respect to real properties for the Fund are made by an investment committee of the Board of Directors of RREEF which consists of all of the directors of RREEF.

6. RREEF is affiliated with RREEF MidAmerica, RREEF USA Partners and RREEF America Partners, all of which are registered investment advisers for other real estate funds having investment objectives similar to those of the Fund. RREEF acts as the investment manager for four RREEF Funds in addition to the Fund (RREEF Fund-I, Fund-III, Fund West-IV and Fund West-V). RREEF MidAmerica acts as the investment manager for RREEF MidAmerica Fund-I, Fund-II and Fund-III. RREEF USA Partners acts as investment manager for RREEF USA Fund-I. RREEF America Partners acts as investment manager for RREEF USA Fund-II. In addition to the \$1,050,000 that the Plan has invested in the Fund, the Plan has invested \$1,050,000 in each of the following funds: RREEF Fund-I, RREEF Fund-III, RREEF Fund West-IV, RREEF MidAmerica Fund-I and RREEF MidAmerica Fund-II. The Plan has also subscribed to invest \$1,000,000 in both RREEF Fund West-V and RREEF MidAmerica Fund-III. This aggregate Plan investment of \$8,300,000 constitutes only 0.64% of the total assets of all RREEF Funds, which are valued at \$1,300,000,000.

7. None of the individuals mentioned above is an officer, director or employee of Household Finance Corporation (HFC) or its subsidiary, City Products Corporation (CPC) or CPC's subsidiary, Von's, nor do such individuals hold an equity interest in HFC, CPC, or Von's. Neither HFC, CPC, nor Von's, nor any officer, director or employee of such companies, has any ownership interest in, or employment capacity with, RREEF or any entity affiliated with RREEF.

8. On August 11, 1977, the Fund entered into an agreement to purchase the Loehmann's Plaza Shopping Center (the Shopping Center), located at the corner of Victory Boulevard and Tampa Avenue in Los Angeles, California, from Tampa Plaza Associates (the Seller).

Virtually all of the 147,827 square feet of leasable area in the Shopping Center is currently leased. Von's leases 29,920 square feet. The current lease agreement between the Fund and Von's was entered into on December 21, 1956. The lease terms were agreed upon through arm's-length negotiation by W. G. Smith, Inc., as lessor, and Shopping Bag Food Stores, Inc. (SBFS), as lessee. The Seller and the Fund are successors in interest to W. G. Smith, Inc.'s rights and obligations under the lease. Von's is the successor in interest to the rights and obligations of SBFS under the lease as a result of a merger of Von's and SBFS in which Von's was the surviving corporation. At no time have the Seller and Von's, or any of their predecessors in interest, been in any way affiliated. The applicant has requested relief from the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code. The Department sees no apparent violation of section 406(b)(1) and (b)(2) of the Act and section 4975(c)(1)(E) of the Code. Accordingly, no exemptive relief is being proposed with respect to those sections.

9. The subject sales transaction was closed on September 12, 1977. The purchase price for the Shopping Center was \$4,773,422. The Fund paid the full purchase price in cash at closing. At closing, the Seller assigned all existing leases to the Fund, including the lease with Von's.

10. The Seller is a limited partnership organized under the laws of the State of California. It is not affiliated with, in control of, or controlled by HFC, Von's, or RREEF, except as lessor to Von's and seller of property to the Fund.

11. The investment in the Fund by the Plan constitutes less than 2% of the Fund's total current assets, and less than 0.06% of the total assets in the Plan. The purchase price of the Shopping Center itself represents 8.84% of the Fund's total current assets, and within the entire Shopping Center, the subject lease represents about 20% of the rentable space.

12. The purchase price was arrived at by the parties through arm's-length negotiation. Because of its expertise in transactions involving commercial real estate, RREEF, consistent with its normal practice, did not have the property appraised by a third party. In accordance with the terms of the Agreement of Purchase and Sale, RREEF made a review of the property prior to closing and determined that the purchase price was appropriate. On

December 31, 1981, the value of the Shopping Center was appraised by an independent appraiser unaffiliated with any of the RREEF organizations at \$8,000,000.

Neither the Fund, RREEF, nor any of RREEF's affiliates is participating in any commission in connection with this transaction, nor do RREEF and its affiliates have any obligation to the Seller.

13. The applicant represents that the transactions meet the statutory criteria of section 408(a) of the Act because: (1) The Shopping Center was considered by RREEF to be an excellent investment opportunity for the Fund, and it has appreciated considerably in value since its purchase; (2) the terms of the sale were arrived at by RREEF and the Seller through arm's-length negotiation; and (3) the terms of the lease with Von's had been negotiated long before the purchase of the Shopping Center by the lessees and parties totally unrelated to, and independent of HFC, Von's and RREEF.

Notice to Interested Persons

Within 10 days of the publication of this notice of proposed exemption in the Federal Register, RREEF will send by mail a copy of this notice to the appropriate fiduciary of each plan or trust that has subscribed to invest in the Fund. The notification will also include a statement advising interested persons of their right to comment within the time period specified.

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) of the

Act and section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the 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, effective September 12, 1977, the restrictions of sections 406(a) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the sale of the Shopping Center by the Seller to the Fund, and the lease of a portion of the Shopping Center to Von's, which began on December 21, 1956, provided the sale and lease terms are no less favorable to the Fund than those available in arm's-length transactions with unrelated parties.

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

which are the subject of this proposed exemption.

Signed at Washington, D.C., this 18th day of May 1982.

Alan D. Lebowitz,
Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-13984 Filed 5-20-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3186]

Proposed Exemption for Certain Transactions Involving the Anderson's Employees Profit-Sharing Trust, Located in Newport, Minn.

AGENCY: P&WBP, 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 Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of an unimproved parcel of real property by the Anderson's Employees Profit-Sharing Trust (the Trust) to Mr. Dale G. Anderson (Mr. Anderson), a disqualified person with respect to the Trust. Because Mr. Anderson is the sole owner of Dale G. Anderson Construction, Inc. (the Employer), the sponsor of the Trust, and is the only participant in the Trust, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code. This notice of pendency proposes exemptive relief for the transaction described herein from only the sanctions imposed under Title II of the Act. The proposed exemption, if granted, would affect the Trust, Mr. Anderson and any 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 June 23, 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, NW., Washington, D.C. 20216, Attention: Application No. D-3186. 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, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander 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 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 Mr. Anderson, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, 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 Trust was created to hold assets in the Anderson's Employees Profit-Sharing Plan and the Anderson's Employees Retirement Plan (the Plans). Mr. Anderson is the sole participant in the Plans and pursuant to the Trust documents exercises discretion with respect to the investment of the Plan's assets. As of June 30, 1981, the Trust held assets totaling \$314,414.

2. The Employer is a corporation solely owned by Mr. Anderson engaged in the business of home construction. As of June 30, 1981, the Employer had total assets of \$64,338 and Mr. Anderson had a net worth in excess of \$540,000.

3. On July 12, 1974, the Trust purchased an unimproved parcel of real property (the Property) from an unrelated party for \$20,000. The Property consists of approximately thirteen (13) acres, is located in Washington County, Minnesota and is known as the Timberlea Estates. Since acquisition, the Property has been used by unrelated parties as a sand and gravel pit and has

generated a net income, as of June 30, 1981, of approximately \$23,000.

4. The applicant seeks an exemption to allow the Trust to sell the Property to Mr. Anderson. Mr. H. Earl Beltz, an independent appraiser located in Hastings, Minnesota, determined that, as of January 15, 1982, the Property had a fair market value of \$195,000. The sale will be at the Property's appraised value for cash and no sales commission or other closing costs will be paid by the Trust. The sale of the Property will enable the Trust to invest in more diversified investments.

5. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria for an exemption under section 4975(c)(2) of the Code because (a) the trustee of the Trust, Mr. Anderson, represents that the proposed transaction is in the best interests of the Trust; (b) the only participant who will be affected by the proposed transaction will be Mr. Anderson and he requests that the transaction be consummated; and (c) the Trust will receive the fair market value of the Property in cash as determined by an independent appraiser.

Notice to Interested Persons

Because Mr. Anderson is the only participant in the Plans 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 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 proposed cash sale of the Property by the Trust to Mr. Anderson for \$195,000, provided that this amount is not less than the fair market value of the Property on the date of 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 18th day of May 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-13985 Filed 5-20-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3262]

Proposed Exemption for Certain Transactions Involving the Building Trades United Pension Trust Fund, Milwaukee and Vicinity Located in Milwaukee, Wis.

AGENCY: P & WBP, 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 loan of \$305,000 (the Loan) by the Building Trades United Pension Trust Fund, Milwaukee and Vicinity (the Fund) to Fred E. and Elizabeth Warden (the Wardens), parties in interest with respect to the Plan; and the personal guarantee of repayment by the Wardens. The proposed exemption, if granted, would affect the Wardens and the participants and beneficiaries of the Fund.

DATE: Written comments must be received by the Department on or before July 12, 1982.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3262. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. 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) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed by the trustees (Trustees) of the Fund, 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 Fund is a collectively bargained multiemployer pension plan established in accordance with section 302(c)(5) of the Labor Management Relations Act of 1947, as amended. As of May 31, 1981, the Fund had approximately 23,800 participants and total assets of approximately \$167,646,000. The Board of Trustees consists of 19 employer-appointed and 19 union-appointed Trustees. Because of the size of the full Board, standing committees have been established to conduct administration and management functions for the Fund. Of the standing committees, only the Investment Committee and the Mortgage Committee make decisions with respect to management of assets.

2. The Mortgage Committee has exclusive authority to act on applications for investment of Fund assets in commercial real estate mortgage financing. Such financing replaces the borrower's short-term construction financing. No application for commercial real estate mortgage financing may be considered by the Mortgage Committee unless it meets the written criteria for acceptance of mortgages.

3. The Mortgage Committee has three employer-appointed and three union-appointed members, with power to cast an equal aggregate number of votes on all matters. A tie vote results in a rejection of an application for financing. Decisions of the Mortgage Committee become final without review or approval of the full Board of Trustees. Nonetheless, the Mortgage Committee reports all of its decisions to the Board of Trustees.

4. The Mortgage Committee invites independent mortgage bankers to present appropriate commercial real estate mortgage opportunities. Five mortgage bankers present such mortgage opportunities to the Mortgage Committee on a regular basis. One of the responsibilities of such mortgage banker is to recommend to the Mortgage Committee what an appropriate interest

rate would be, given all of the other negotiated terms and conditions of the mortgage and the existing prevailing interest rates for comparable projects.

5. The transaction for which an exemption is sought involves the Loan which is to be made by the Fund to the Wardens. More than 50% of the stock of Fred E. Warden, Inc. (Warden) is owned by Mr. Warden. Warden is a contributing employer to the Fund. Neither the Wardens nor any director, officer or employee of Warden is now or has ever been a Trustee of the Fund, a member of the Mortgage Committee or of any other Fund committee, or associated with the Fund in any other capacity.

6. The Loan would be in the amount of \$305,000 which constitutes less than 0.18% of the Fund's total assets. The Loan would be secured by a first mortgage on certain real property located in the Heritage Ridge Shopping Centre (the Centre). The subject property is known as Parcel 3B in the Centre. The sole purpose for the Loan would be to reimburse the Wardens, to the extent of the Loan, for land acquisition, construction, equipment, furnishings, professional fees, taxes, and other out-of-pocket expenses actually incurred or paid by the Wardens with respect to such real estate. The total disbursements made by the Fund would not exceed the lesser of (i) the sum of actual expenditures, or (ii) 75% of the independently determined appraised value of the improved real estate.

7. The Wardens submitted an application for the Loan and said application has been approved by the Fund's Mortgage Committee, subject to receipt by the Fund of the proposed exemption. Such application was found by the Mortgage Committee to meet the criteria for acceptance of mortgages and is represented to constitute the type of "blue chip" mortgage financing suitable for Fund investment.

8. The loan would be for a term of 10 years with level payments of principal and interest (based upon a 30-year amortization) to be paid monthly throughout the term of the Loan. The initial rate of interest throughout the term of the Loan would be fixed at 15½% per annum, which was determined by the Mortgage Committee to be the market rate at the time the loan application was negotiated. The interest rate can be increased at the Fund's option every three years by up to ½% per annum. The Mortgage Committee determines the interest rate for a given mortgage based upon the rate recommended by the presenting mortgage banker, the prevailing

experience and knowledge of the Mortgage Committee members and prevailing market conditions. The interest rate, as determined above, would be the same whether the mortgagor is a party in interest (such as the Wardens) or an unrelated party.

9. The indebtedness created by the Loan would be evidenced by a promissory note executed by the Wardens. Payment of the note would be personally guaranteed by the Wardens, whose net worth is in excess of \$750,000. In addition to a first mortgage on the improved real estate and the Wardens personal guarantee, payment of the note would be further secured by a general assignment to the Fund of the leases between the Wardens and the person or persons occupying the improvements constructed on the real estate. The first mortgage would be insured by mortgage title insurance guaranteeing that the mortgage is a valid first lien against the improved real estate. The Loan would be made on the same terms, pursuant to the same conditions, and would be treated in all respects in the same manner as loans made to persons who are unrelated to the Fund.

10. Prior to the closing of the Loan, Warden will construct an Ace Hardware store on the parcel of real estate. Richter-Schroeder Company, Inc. (Richter) provides mortgage servicing to the Fund. Richter will service the Loan on behalf of the Fund for a specified servicing fee of 1/8 of 1% of the declining principal balance of the Loan, pursuant to a servicing agreement between the Fund and Richter.¹

11. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(a) The Mortgage Committee has determined that the proposed transaction is in the best interests of the Fund and its participants and beneficiaries;

(b) The Loan contains the same terms and conditions as similar loans that the Fund has made to unrelated parties; and

(c) only a small portion of Fund assets would be involved in the Loan.

Notice to Interested Persons

On or before June 10, 1982, notice of the proposed exemption will be sent by bulk mailing to all contributing employers to the Fund, and to each collective bargaining unit, members of which are participants in the Fund, for conspicuous posting. Such notice shall

include a copy of the notice of pendency as proposed in the Federal Register and shall inform interested persons of their right to comment within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, 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) of the Act and section 4975(c)(1)(E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the

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) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the Loan by the Fund to the Wardens, provided that the terms and conditions of the Loan are at least as favorable to the Fund as those it could obtain from an unrelated party; and to the personal guarantee of repayment by the Wardens.

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 18th day of May 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-13983 Filed 5-20-82; 8:45 am]

BILLING Code 4510-29-M

[Application No. D-3119]

Proposed Exemption for Certain Transactions Involving Little Rock Diagnostic Clinic, P.A., Profit Sharing Plan Located in Little Rock, Ark.

AGENCY: P&WBP, 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 lease by the Little Rock Diagnostic Clinic, P.A. Profit

¹ The Department is not proposing an exemption in this notice beyond that which is provided by section 408(b)(2) of the Act.

Sharing Plan (the Plan) to LRDC Land Company (Land Company), a party in interest with respect to the Plan; and the subordination of the Plan's interest in the leased premises. The proposed exemption, if granted would affect the participants and beneficiaries of the Plan, the Land Company and any other persons participating in the transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before July 1, 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-3119. 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 Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan, a defined contribution profit sharing plan, was adopted April

12, 1971. As of April 30, 1981, there were 45 Plan participants. The Plan trustees are Dr. James H. Abraham, Dr. Ernest H. Harper and Mr. Roger J. St. Onge (the Trustees). As of April 30, 1981, the Plan had total assets of \$3,011,343.

2. The Land Company was created by a written agreement dated May 8, 1974. The partners in the Land Company (the Partners) are Plan participants and include the Trustees. The Partners own approximately 94% of the stock of Little Rock Diagnostic Clinic, P.A. (the Employer). The Land Company is a general partnership whose sole purpose is to lease real property to the Employer for operation of a medical clinic.

3. The Plan owns 4.368 acres of land in Little Rock, Pulaski County, Arkansas. The Plan entered into a ground lease (the Lease) with the Land Company on May 8, 1974. The Lease is divided into two parts, a temporary term beginning April 1, 1974, and ending July 31, 1975, and a permanent term of 25 years beginning August 1, 1975, and ending July 31, 2000. The rent for the temporary term was equal to the 1974 real estate taxes and any other taxes assessed against the premises. During the temporary term, the Land Company constructed a medical clinic on the land. The rent for the permanent term was equal to \$27,000 per year subject to an adjustment every five years based on the Cost of Living Index published by the Department. The current rental being paid to the Plan is \$41,196. The Lease between the Plan and the Land Company is a triple net lease and the Plan has no obligation to make any payment in connection with the leased premises. Under the Lease, the Plan agreed to subordinate its title to the leased premises to the mortgage lien holder on the medical clinic. The Land Company pursuant to an agreement dated May 8, 1974 and commencing August 1, 1975 for a period of twenty-five years is leasing the medical clinic to the Employer. The Trustees and the Land Company propose to amend the Lease (New Lease) to provide for annual cost of living adjustments. The Partners, pursuant to an indemnification agreement executed on April 8, 1982, agree to indemnify the Plan from all loss, damage and expense which the Plan may sustain by the subordination of its title. The Partners have a net worth in excess of \$8,000,000. No other material modification to the terms or provisions of the Lease are proposed.

¹ The applicants represent that the lease executed in 1974 is covered by the transitional rules of section 414(c)(2) of the Act. In this proposed exemption the Department expresses no opinion as to whether the lease executed in 1974 is within the scope of section 414(c)(2) of the Act.

The term of the New Lease would end July 31, 2000.

4. The fair market rental value of the New Lease, as determined in an appraisal dated August 28, 1981 performed by Ronald E. Bragg (Mr. Bragg) of Barnes, Quinn, Flake & Anderson, Inc., an independent M.A.I. appraiser was \$3,161.67 per month or \$37,940 annually. Mr. Bragg also determined that the fair market value of the land owned by the Plan was \$271,000 as of August, 1981.

5. On September 10, 1981, Twin City Bank of North Little Rock, Arkansas, was appointed as an independent real estate investment manager (Real Estate Manager) with sole responsibility and discretion to direct the Trustees regarding management of real property held by the Plan. The Real Estate Manager represents that it has no relationship with the Land Company, the Employer, any employee of the Land Company or the Employer, or the Plan except as Real Estate Manager. The Real Estate Manager, who is responsible for making an independent determination that the New Lease is appropriate and suitable for the Plan, has determined that the new lease is appropriate and suitable for the Plan and in the best interests of the Plan's participants and beneficiaries. The Real Estate Manager will again reconsider the New Lease prior to the time of its execution to ensure that the New Lease is still in the best interests of the Plan's participants and beneficiaries. The Real Estate Manager will be responsible to enforce the terms of the New Lease, including making demand for timely payment, bringing suit in the event of a breach of terms of the New Lease, keeping accurate records regarding computing the annual cost-of-living adjustment and reporting annually to the Trustees.

The Real Estate Manager has reviewed Article VII of the New Lease which provides that the Plan will continue to subordinate its title on the leased premises to the mortgage lien holder on the medical clinic. The Real Estate Manager represents that such subordination provisions are in accordance with normal business practices and the requirements of lenders in the area and does not alter its favorable opinion of the proposed transaction. The original loan for the construction of the medical clinic was \$1,350,000 and the current loan balance is \$1,217,312.54. Since the Real Estate Manager estimates the fair market value of the building was \$2,280,213 as of July 1, 1980, the Real Estate Manager represents that there is sufficient equity

present to protect the Plan and its participants.

6. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because

(1) The New Lease will be monitored by an independent Real Estate Manager;

(2) The Plan will receive a return in excess of that which an independent appraiser has determined is fair market rental value;

(3) The Plan will be indemnified by the Partners against any loss, damage or expense incurred as a result of subordinating its title in the land; and

(4) The independent Real Estate Manager has determined that the transactions are appropriate for the Plan and are in the best interests of the Plan's participants and beneficiaries.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Within ten days after the notice of pendency is published in the *Federal Register* notice will be given to all Plan participants, beneficiaries, and other interested parties by mail, personal delivery, or by posting on a bulletin board which regularly contains notices for employees of the Employer. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the *Federal Register* and shall inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act,

which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of 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 lease of land by the Plan to the Land Company, including the subordination of the Plan's interest in the leased premises, provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's length 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 transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 18th day of May 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-13982 Filed 5-20-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3270]

Proposed Exemption for Certain Transactions Involving the Basic Steel Corporation Employees' Profit Sharing Plan Located in Riverdale, Ill.

AGENCY: P&WBP, 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 (the Loan) by the Basic Steel Corporation Employees' Profit Sharing Plan (the Plan) to Basic Steel Corporation (the Employer) of 40 percent of the total assets of the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the trustees, the Employer and other persons participating in the proposed transaction.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before July 6, 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-3270. 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. Jan Broady of the Department of Labor, telephone (202) 523-7222. (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 (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)(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)(1)(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 Employer corporation, which is located in Riverdale, Illinois, is engaged in the manufacture of steel products. The Employer maintains the Plan as a profit sharing plan which on December 30, 1980 provided coverage to 37 participants and had \$1,248,758 in total assets. The trustees of the Plan are Messrs. Thomas Clark, Abdul Hamid and Morrie Much. Messrs. Clark and Hamid are officers of the Employer. Mr. Much is an attorney in private practice. These individuals also make investment decisions for the Plan.

2. The Employer proposes to enter into a loan arrangement with the Plan in order to finance the installation of new equipment for use in its business. The Employer is requesting an exemption in order to borrow 40 percent of the assets

of the Plan (approximately \$499,500). The Loan will be evidenced by a promissory note signed by the Employer. The Loan will bear interest at the rate of 16½ percent per annum and will be repaid in quarterly installments of principal and interest over a seven year term.

3. The Loan will be secured by a one year irrevocable letter of credit (the Letter of Credit) issued by Woodfield Bank (Woodfield) of Schaumburg, Illinois, an unrelated entity. The Letter of Credit will be in an amount at least equal to the outstanding Loan balance including any accrued interest, and will also cover any interest which may accrue during each one year period it is in effect. The Letter of Credit will be renewable annually unless Woodfield gives the independent fiduciary designated to oversee the Loan written notice thirty days prior to any renewal date that it will not re-extend the Letter. In this event, the independent fiduciary will call the Loan and draw upon the Letter of Credit before it lapses.

4. LaSalle National Bank (LaSalle) of Chicago, Illinois has been designated as the independent fiduciary for the proposed Loan. LaSalle represents it has a negligible commercial relationship with the Employer since less than 1 percent of the total loans carried on its books are with the Employer. According to LaSalle, the Employer has a \$2.5 million revolving line of credit with \$1.8 million outstanding and also a \$1 million term loan with the bank which matures in August 1988. As for average demand deposit balances, LaSalle indicates the Employer maintains average demand deposit balances of low six-figures. LaSalle considers this relationship immaterial since the Employer's demand deposits represent less than 1 percent of the total deposits held by LaSalle.

5. As the independent fiduciary, LaSalle considers the proposed Loan transaction an appropriate and suitable investment for the Plan and its participants and beneficiaries. In addition to reviewing the specific terms and conditions of the proposed Loan, LaSalle has: (1) Examined the overall Plan investment portfolio; (2) considered the cash flow needs of the Plan; (3) given consideration to the necessity of a sale of any Plan assets; (4) examined the diversification of Plan assets in light of the proposed Loan investment; and (5) reviewed the terms of the proposed Loan as such terms comport with the Plan's investment scheme. LaSalle will also monitor the Loan to ensure repayment and take appropriate actions in the event of an Employer default. LaSalle will be further empowered to call the Loan at any time and will draw

on the Letter of Credit in the event Woodfield gives appropriate written notice that the Letter will not be renewed or the Employer defaults on Loan payments.

6. In summary, the applicant represents that the proposed Loan will satisfy the criteria of section 408(a) of the Act because: (a) Its terms and conditions will be monitored by LaSalle; (b) the Loan will be secured by a Letter of Credit from Woodfield which can be called at any time, and must be called if Woodfield notifies LaSalle that it will not renew the Letter or the Employer defaults on Loan payments; and (c) LaSalle, as independent fiduciary to the Plan, has determined the transaction is appropriate for the Plan and is in the best interests of the Plan's participants and beneficiaries.

Notice to Interested Persons

Notice of the pending exemption will be given to all interested persons within ten (10) days of the publication of the notice of pendency in the *Federal Register*. Notice will be given to present employees of the Employer as well as those former employees with an interest in Plan assets. The notice will include a photocopy of the notice of pendency as published in the *Federal Register* and will inform interested persons of their right to comment on and/or request a hearing with respect to the proposed exemption. Notice will be provided to current employees of the Employer by posting copies of the pending exemption at locations customarily used for giving notice to employees. Notice to former participants and other interested persons will be given by first class mail.

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, 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), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the Loan by the Plan to the Employer of 40 percent of the total assets of the Plan, provided the terms of Loan are at least as equal to those which the Plan could receive in a similar transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the

application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 18th day of May, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-13980 Filed 5-20-82; 9:45 am]

BILLING CODE 4510-29-M

[Application No. D-3126]

Proposed Exemption for Certain Transactions Involving Marsh & McLennan Real Estate Advisors, Incorporated Located in Boston, Mass.

AGENCY: P&WBP, 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 allow collective investment funds (together, the Funds) that are managed by Marsh & McLennan Real Estate Advisors, Incorporated (REA), in which employee benefit plans participate, to engage in certain transactions provided specified conditions are met. The proposed exemption, if granted, would affect participants and beneficiaries of employee benefit plans, employers of employees covered under such plans, the Funds, and other persons engaging in the described transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before July 6, 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-3126. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Gary H. Lefkowitz of the Department of

Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the trustees of the Managed Property Trust (Trust I) and the Participating Properties Trust (Trust II), 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.

Preamble

On July 25, 1980, the Department published a class exemption, Prohibited Transaction Exemption 80-51 (PTE 80-51, 45 FR 49709), which permits collective investment funds that are maintained by banks and in which employee benefit plans participate to engage in certain transactions provided that specified conditions are met. The transactions for which the applicant has requested relief are those which are the subject of PTE 80-51.

The Department stated in PTE 80-51 that a comment had been received to the proposed class exemption requesting that it be amended to apply to collective investment funds that are not maintained by banks. Relief was granted for bank collective investment funds because, among other reasons, such funds are regulated by other governmental agencies and constitute a well-defined class of funds. In the case of collective investment funds that are not maintained by banks, the Department found that the record was insufficient to determine the nature of the funds and the entities managing the funds that would comprise the class covered by such broad relief. As a result, the Department stated that it could not make the required statutory findings for such relief, and that relief for non-bank maintained collective investment funds should be dealt with

on an individual rather than a class basis.

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. REA, a registered investment adviser under the Investment Advisers Act of 1940, is the investment manager for the Funds, including Trust I and Trust II (together, the Trusts). REA was formed on March 17, 1980, to provide to various parties, including real estate funds such as the Funds, advice and investment management services with respect to real estate investments. Fifty-one percent of REA is owned by Marsh & McLennan Asset Management Company and forty-nine percent is owned by the trustees of Trust I and Trust II.

2. Trust I was created on October 31, 1980, and Trust II on October 1, 1981. The Trusts are group trusts described in Rev. Rul. 81-100, 1981-13 I.R.B. 32 (which superseded, without substantial change, Rev. Rul. 56-267, 1956-1 C.B. 206), and were created to provide pension and profit-sharing plans which are described in section 401(a) of the Code and exempt from federal income taxation under Code section 501(a) with a medium for pooling a portion of their funds for investment in real estate. The trustees of the Trusts are Messrs. Richard F. Burns, John W. Kessler, Donald B. Shackelford, and Craig R. Stapleton (the Trustees). All of the Trustees are shareholders and officers and/or directors of REA. The Trustees are not compensated by the Trusts.

It is anticipated that real estate investment will provide plans participating in the Funds (Participating Plans) with attractive investment returns and also assist fiduciaries in achieving the diversification required by the Act. The Trusts will hold title to real estate (Trust I primarily directly and Trust II primarily through joint ventures), receive income therefrom, and turn over the entire amount of such income, less expenses, to the Participating Plans. To avoid holding uninvested cash pending investment in real property, subscription proceeds may be temporarily invested in short-term investments including, but not limited to, government securities, government-insured first mortgage loans, commercial paper, interest-bearing deposits, certificates of deposit, and bankers' acceptances.

It is contemplated that one or more additional Funds similar to the Trusts will be organized from time to time. The Trustees may serve in the same capacity for some of the additional Funds, without compensation from the Funds. Other persons, who also would be officers and/or directors of REA or their affiliates and would serve without compensation from the Funds, may also be appointed as trustees. In any event, REA will be the investment manager for each of the additional Funds to be covered by the requested exemption. The applicants state that such additional Funds will, in all material respects, be similar to the Trusts. Some may be open-end and some closed-end, and the minimum investment by a Participating Plan may vary, but in no event will such minimum investment be less than \$1 million.

3. Trust I is open-end, and Trust II is closed-end. Presently, there are no pension or profit-sharing plans subscribed to either of the Trusts. Under the current Offering Memorandum, the initial offering period for Trust I will expire on December 31, 1982.

All plans subscribing to Trust I must make a minimum initial investment of \$2,500,000, but no interests will be sold unless prospective participants have subscribed for at least an aggregate of \$10 million. Any subscription may be rejected by Trust I in whole or in part at its discretion if acceptance of the subscription would result in a subscriber owning more than ten percent of the outstanding units.

No interest in Trust II will be sold after December 31, 1982, and the maximum size of Trust II will be \$150 million. Unless \$50 million have been subscribed by June 30, 1982, or such later date (not later than December 31, 1982) to which the offering is extended, all subscription agreements will be cancelled, and the offering will terminate.

All plans subscribing to Trust II must make an initial minimum investment of \$5 million. As with Trust I, any subscriptions to Trust II may be rejected in whole or in part if acceptance would result in the subscriber owning more than ten percent of the outstanding units.

4. Trust I may be terminated at any time by the Trustees at their sole discretion or by the affirmative vote of the holders of two-thirds of the number of units outstanding. Trust II may be terminated on December 31, 1992, or any December 31 thereafter, by an affirmative vote of Participating Plans holding at least 70 percent of the outstanding units, or on any date

determined by the Trustees in their sole discretion, whichever is earlier.

As required by Rev. Rul. 81-100 (and its predecessor, Rev. Rul. 56-267), the interest of any Participating Plan in the Trusts is not transferable or assignable to third parties. Fiduciaries desiring to invest plan assets in the Trusts have been fully advised that only long-term investment in the Trusts must be considered, and an acknowledgment to that effect is contained in each Subscription Agreement. If, however, any Participating Plan wishes to dispose of its investment, it may apply to the Trustees for redemption of its units. Redemption will be made at the unit value as of the valuation date preceding the date on which redemption occurs.

Redemption of units of Trust I may take place over a period of up to two years at the discretion of REA. REA may, but need not, sell properties in order to redeem units, except as may be necessary to redeem units within the two year period. If a request for redemption remains unsatisfied for two full calendar quarters, no new commitments to purchase property which are anticipated to require disbursements of funds will be entered into.

Redemption of units of Trust II will occur when the amount required for redemption is contributed by remaining or new Participating Plans or a combination thereof.

5. The Offering Memoranda by which interests in the Trusts will be offered to qualified pension and profit-sharing plans which are potential investors describe the management, operation, investment objectives, and income tax consequences of the Trusts, and the compensation received by REA from the Trusts.

Within 120 days after the close of the fiscal year, each Participating Plan will receive a balance sheet, profit and loss statement, and a statement of changes in financial position for the fiscal year audited by an independent certified public accountant. The accountant's report will include a summary of the fees paid by the Trusts to REA. Participating Plans will also receive a narrative describing the activities of the Trusts during the fiscal year.

Within 60 days after the end of each of the first three quarters of each fiscal year, each Participating Plan will receive a balance sheet, an income statement, a statement of changes in financial position, and reports on investments, including a complete description of acquisitions and dispositions of real property and the terms thereof, the amount and date of

appraisals, and the Trusts' cash investments. REA will provide whatever other reasonable information is, from time to time, requested by any Participating Plan.

Approximately six months after the acquisition of any real estate investment by either Trust, REA will obtain a comprehensive evaluation of the property by an independent appraiser. Each property will be fully reappraised at least once each three years, and the most recent full appraisal will be reviewed every six months to determine if there has been a significant change in value necessitating a new complete appraisal. Such six month reviews will be performed alternately by REA and an independent appraiser.

Books and records of the Trusts will at all times be maintained at the principal offices of the Trusts and will be open to inspection and examination during reasonable business hours by the fiduciaries or other authorized representatives of the Participating Plans.

6. No individual holds any equity interest in the Trusts. None of the individual Trustees of the Trusts, nor any of the employees, officers, directors, or shareholders of REA will serve as a fiduciary of any Participating Plan (except to the extent that they will be fiduciaries by reason of the plan's investment in the Trusts) or as a director or officer of any sponsor of a Participating Plan.

7. As investment manager for the Trusts as defined in Act section 3(38), REA will, on behalf of the Trustees, exercise discretion regarding acquisition and disposition of all property. REA will also operate the Trusts on a day to day basis, including authorizing and supervising on-site property management. Generally, except for on-site property management, REA and its affiliates will directly provide all services to the Trusts. REA may, however, at its own expense, retain unrelated parties to assist in providing services.

REA receives a single fee from each Trust for services provided which is based on the value of the assets of the Trusts. The quarterly fee for Trust I will be 0.3 percent of net assets (1.2 percent per year). The quarterly fee for Trust II will be 0.3 percent of net real estate assets and 0.0625 percent of net temporary investments. No fees are generated on the basis of any particular investment or transaction of either Trust I or Trust II. REA charges no sales or brokerage fees on property transactions and no lease renewal or negotiation fees with respect to management of the property. Direct expenses incurred by

REA in connection with the Trusts, including salaries for on-site management personnel, will be charged to the Trusts.

8. The applicants, on behalf of the Trusts and similar subsequent funds, seek the same relief granted to bank collective investment funds in PTE 80-51. The subject transactions have not yet been entered into by the Trusts and will not be entered into until an exemption is granted.

9. The Trusts will lease real estate. Prospective tenants include employees and their affiliates whose plans invest in the Trusts, persons providing services to such plans, and fiduciaries of such plans. Any given lease will typically account for a small percentage of rental income to the Trusts and the participation of any single tenant who may be a party in interest will be proportionately small. Nonetheless, without an exemption, it will be necessary to verify that every prospective tenant of any property owned by the Trusts is not a party in interest with respect to any Participating Plan. If the requested exemption is not granted, the Trusts may be faced with the prospect of denying leases to the best tenants available or with the prospect of failing to purchase attractive properties, either of which could result in a failure to obtain the best investment return for the Participating Plans.

10. In assuring that adequate property management services, including property maintenance and repair, rent collection, and bookkeeping, are provided to Trust I, REA will rely primarily on outside managers. For Trust II, REA intends to rely primarily on the services of joint venturers. In situations where REA determines that outside managers cannot efficiently provide adequate services, it will rely on its own resources and those of its affiliates. Any such direct property management services will be provided at cost. In any case, REA will monitor the performance of the property managers as part of its day to day management of the Trusts.

11. The applicants represent that the Trusts and similar subsequent Funds will meet all the conditions imposed in PTE 80-51, except that the Trusts are, and similar subsequent Funds will be, privately organized and maintained.

12. Because REA is a registered investment adviser under the Investment Advisers Act of 1940, certain of its activities and operations are regulated by the Securities and Exchange Commission and subject to periodic examination.

13. Each of the Trusts will be regularly audited by an independent national

accounting firm. The independent accountant will audit all financial aspects of the Trusts, including, without limitation, verification of REA's fees, confirmation and monitoring of all sale and lease agreements, and preparation of regular financial reports. The auditors will have access to all of the Trusts' records and will have the authority to review and verify the details of all transactions of the Trusts, including compliance with the Act and any applicable prohibited transaction exemptions.

14. In summary, the applicants represent that the subject transactions meet the criteria of Act section 408(e) because: (1) The Trusts and similar subsequent Funds will provide Participating Plans with the best possible real estate investments and a broader selection of appropriate real estate investment vehicles; (2) each of the protections provided to Participating Plans and their participants and beneficiaries by PTE 80-51 will be satisfied for the subject transactions, except that the Funds are privately maintained; and (3) the decisions to invest in any of the Funds are made by knowledgeable fiduciaries of large employee benefit plans on the basis of a detailed Offering Memorandum. Furthermore, such fiduciaries are unrelated to REA or any of its affiliates. In addition, the proposed exemption imposes limitations which are designed to prevent the potential for abuse while permitting the relief requested by the applicants.

Notice to Interested Persons

Within 14 days of the publication of this notice of proposed exemption in the Federal Register, the applicants will send by mail a copy of such notice to the fiduciaries of any Participating Plan which may have subscribed to either or both of the Trusts. The notice will also inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act,

which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representatives set forth in the application, the Department is considering granting the following 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).

Section I. Exemption for Certain Transactions Involving the Fund

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the

sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions Between Parties In Interest and the Fund: General.* Any transactions between a party-in-interest with respect to a Participating Plan and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if the party in interest is not REA or one of its affiliates and if, at the time of the transaction, acquisition or holding, the interest of the plan, together with the interests of any other plans maintained by the same employer or employee organization in the Fund, does not exceed 5 percent of the total of all assets in the Fund.

(2) *Special Transactions Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiple Employer Plan and the Fund.* Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiple employer plan that is a Participating Plan and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if at the time of the transaction, acquisition or holding—

(A) The interest of the multiple employer plan in the Fund does not exceed 10 percent of the total assets in the Fund, and the employer is not a "substantial employer" with respect to the plan (within the meaning of section 4001(a)(2) of the Act), or

(B) The interest of the multiple employer plan in the Fund exceeds 10 percent of the total assets in the Fund, but the employer is not a "substantial employer" with respect to the plan and would not be a "substantial employer" within the meaning of section 4001(a)(2) of the Act if "5 percent" were substituted for "10 percent" in that definition.

(3) *Acquisitions, Sales or Holdings of Employer Securities and Employer Real Property.* (A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer securities or employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to REA or to the employer, or any affiliate of REA or the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real property; and

(i) In the case of employer real property—

(aa) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants, and

(bb) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities—

(aa) Neither REA nor any of its affiliates is an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either:

1. The Fund owns the obligation at the time the plan acquires an interest in the Fund, and interests in the Fund are offered and redeemed in accordance with valuation procedures of the Fund applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation: (a) not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such plan, and (b) in the case of an obligation that is a restricted security within the meaning of Rule 144 under the Securities Act of 1933, at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. REA, its affiliates and any collective investment fund maintained by REA or its affiliates shall be considered to be persons independent of the issuer if REA is not an affiliate of the issuer.

(B) In the case of a Participating Plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property with respect to which REA or its affiliate has investment discretion does not exceed 10 percent of the fair market value of all the assets of the Participating Plan with respect to which REA or its affiliate has such investment discretion.

(C) For purposes of the exemption contained in subsection (A) of this section (3), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to, a person who is a party-in-interest with respect to a Participating Plan by reason of a relationship to the employer described in section 3(14)(E), (G), (H) or (I) of the Act.

(b) The restrictions of section 406(a)(1)(A), (B), (C), and (D) and section 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the code shall not apply to the transactions described below, if the conditions of Section III are met.

(1) *Transactions with Persons Who Are Parties in Interest With Respect to a Participating Plan Solely By Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.* Any transaction between the Fund and a person who is a party-in-interest with respect to a Participating Plan if—

(A) The person is a party-in-interest (including a fiduciary) solely by reason of providing services to the Participating Plan, or solely by reason of a relationship to a service provider described in section 3(14)(F), (G) (H) or (I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility or influence with respect to the investment of the Participating Plan's assets in, or held by, the Fund, and

(B) The person is not an affiliate of REA.

(2) *Certain Leases and Goods.* The furnishing of goods to the Fund by a party-in-interest with respect to a Participating Plan or the leasing of real property owned by the Fund to such party-in-interest and the incidental furnishing of goods to such party-in-interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund;

(B) The party-in-interest is not REA, any affiliate of REA, or one of the other Funds; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Fund with the same party-in-interest, or any affiliate thereof) does not exceed the greater of \$25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(3) *Management of Real Property.* Any services provided to the Fund by REA or by an affiliate of REA in connection with the management of the real property owned by the Fund, if the compensation paid to REA or its affiliate does not exceed the cost of the services to REA or its affiliate.

(4) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Fund to a party-in-interest with respect to a Participating Plan, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

Section II. Excess Holdings Exemption for Employee Benefit Plans

(a) The restrictions of sections 406(a), 406 (b) (2) and 407 (a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975 (c) (1) (A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through the Fund) by a Participating Plan if (1) the acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer securities or employer real property held by the Fund; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in Section III of this exemption are met.

Section III—General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of REA or its affiliate, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) REA or its affiliate maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section III to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of REA or its affiliate, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that 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 the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c) (1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a) (2) and (b) of section 504

of the Act, the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a Participating Plan who has authority to acquire or dispose of the interests in the Fund of the Participating Plan or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any Participating Plan or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any Participating Plan, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of REA or its affiliate, or commercial or financial information which is privileged or confidential.

Section IV—Definitions and General Rules

For the purposes of this exemption.

(a) The term "the Fund" shall include Trust I, Trust II and any collective investment fund that may hereafter be established, operated and managed by REA or its affiliate in essentially the same manner as Trust I and Trust II.

(b) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any officer, director, employee, relative of, or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code); or a brother, a sister, or a spouse of a brother or sister.

(e) The term "multiple employer plan" means an employee benefit plan that satisfies at least the requirements of section 3(37)(A) (i), (ii) and (v) of the Act

and section 414(f) (1) (A), (B) and (E) of the Code.

(f) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated.

If any transaction is entered into, or an acquisition is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virtue of Section I(a)(1) at such time as the interest of the Participating Plan exceeds the percentage interest limitation of Section I(a)(1), unless no portion of such excess results from an increase in the assets allocated to the Fund by the Participating Plan. For this purpose, assets allocated do not include the reinvestment of Fund earnings. Nothing in this paragraph (e) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(g) Each Participating Plan shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

The availability to this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this proposed exemption.

Signed at Washington, D.C., this 18th day of May 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-13979 Filed 5-20-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2692]

Proposed Exemption for Certain Transactions Involving the Boyles Furniture Employees Profit Sharing Plan and Trust Located in High Point, N.C.

AGENCY: P&WBP, 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: (1) The proposed sale (the Sale) of real property (the Property) to the Boyles Furniture Profit Sharing Plan and Trust (the Plan) by L.E. Boyles, Jr. and his wife, Rida I. Boyles (the Boyles); (2) the subsequent lease (the Lease) of the Property by the Plan to Boyles Furniture Sales, Inc. (the Employer), the sponsor of the Plan; and (3) certain guarantees by L.E. Boyles, Jr. with respect to the Property. The proposed exemption, if granted, would affect the Employer, the Boyles, the participants and beneficiaries of the Plan and other persons participating in the transactions.

DATE: Written comments are requests for a public hearing must be received by the Department on or before July 1, 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-2692. 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: Louis Campagna of the Department,

telephone (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) 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 Plan is a profit sharing plan with approximately 47 participants and total assets, as of July 2, 1981, of \$750,000. High Point Bank and Trust Company of High Point, North Carolina is the trustee (the Trustee) of the Plan. The Employer has been in the business of retail furniture sales for twenty years with total sales for 1980 of \$7,622,230. L. E. Boyles, Jr. is the president, director and owner of 67% of the outstanding stock of the Employer.

2. The Property consists of land and a building located on Main Street, High Point, North Carolina. The Employer considers the location of the Property ideal for a new store. In March of 1981, the Boyles purchased the Property for \$250,000 from persons unrelated to the Employer. This purchase of the Property by the Boyles was made on an interim basis to prevent the sale of the Property to another purchaser and in contemplation of the Property being sold to the Plan by the Boyles conditioned upon the grant by the Department of this exemption request.

3. The applicants are requesting an exemption for the proposed Sale of the Property by the Boyles to the Plan and the subsequent Lease of the Property by

the Plan to the Employer. The Sale will be for a sum of \$250,000 in cash. This value was determined to be the fair market value of the Property, as of May 19, 1981 by Calvin White and Associates, Inc. (White) of High Point, North Carolina, an independent real estate appraiser. All expenses related to the Sale of the Property will be paid by the Employer. The Lease will be a triple net lease for one term of ten years. Initially rentals under the Lease will be \$3,000 per month. This value was determined by White to be the fair market rental value of the Property, as of May 19, 1981. Every three years rentals will be adjusted to reflect the then fair market rental value of the Property as determined by an independent appraiser, but in no event will the rentals be less than \$3,000 per month. The applicant represents that rental income of \$3,000 per month will provide the Plan with a return of approximately 15% per annum.

4. If the Trustee decides to sell the Property at any time during the period ten years subsequent to the date of the grant of this exemption and is unable to obtain an offer for \$250,000, Mr. L. E. Boyles would guarantee the repurchase of the Property at \$250,000. Mr. L. E. Boyles also personally guarantees for a period of five years subsequent to the date of grant of this exemption that in the event of a default under the Lease the Plan will receive monthly rentals of the greater of \$3,500 or the fair market rental value of the Property. Mr. L. E. Boyles' net worth, as of November 19, 1981, was approximately \$1,383,655. The Employer represents that because the Property is in a prime commercial area in High Point, North Carolina, if the Property is ever sold by the Plan or vacated by the Employer a purchaser or lessee would be easily obtainable.

5. Mr. Edward Price (Price), a licensed real estate broker in the area for the past ten years and vice president of Chambers and Price Realtors of High Point, North Carolina, has accepted appointment as special trustee with respect to this transaction. Price is independent of the parties to the transaction. Price has reviewed the transaction and represents that the Sale and Lease are in the best interests of the Plan and its participants and beneficiaries. Also, Price will monitor the rental payments made to the Plan and will be responsible for enforcing the rights of the Plan under the terms and conditions of the Lease.

6. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because: (1)

Price, an independent party, has determined that the Sale and the Lease are in the best interests of the Plan; (2) Price will monitor the terms and conditions of the Lease; (3) the Sales price and rentals to be paid under the Lease have been determined by an independent appraiser; (4) the rentals to be received by the Plan will be adjusted every three years to reflect the fair market rental value of the Property; (5) if the Trustee decided to sell the Property at any time during the period ten years following the date of the grant of this exemption and is unable to obtain an offer for at least \$250,000, Mr. L. E. Boyles would guarantee the repurchase of the Property at \$250,000; and (6) Mr. L. E. Boyles also guarantees the payment of monthly rentals to the Plan in the event of a default under the Lease for a period of five years following the grant of this exemption of the greater of \$3,500 or the fair market rental value of the Property.

Notice to Interested Persons

Notice will be given to all participants and beneficiaries of the Plan within 10 days of the publication of the notice of pendency in the *Federal Register*. Notice will be made by mail or by posting on bulletin boards customarily used for notices to employees of the Employer. Such notice will include a copy of the notice of pendency and a statement informing interested persons of their right to comment or request a hearing on the proposed exemption within the 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 4875(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The Sale of the Property by the Boyles to the Plan provided the Sales price is not greater than the fair market value of the Property at the time of the Sale; (2) the Lease of the Property by the Plan to the Employer provided the terms and conditions of the Lease are at least as favorable to the Plan as the Plan could obtain in a similar transaction with unrelated parties; and (3) certain

guarantees of L. E. Boyles with respect to the Property as described herein.

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 18th day of May 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-13981 Filed 5-20-82; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506.

Date: June 14, 1982.

Time: 8:30 a.m. to 5:30 p.m.

Room: 1134.

Program: This meeting will review applications submitted for Research Materials: Publications Panel, Division Research Programs, for projects beginning after October 1, 1982.

Date: June 18, 1982.

Time: 8:30 a.m. to 5:30 p.m.

Room: 1134.

Program: This meeting will review applications submitted for Research Materials: Publications Panel, Division Research Programs, for projects beginning after October 1, 1982.

The proposed meetings 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. Because the proposed meetings will consider information that is likely to disclose:

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation of proposed agency action;

Pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call 202-724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-13940 Filed 5-20-82; 8:45 am]

BILLING CODE 7536-01-M

Folk Arts Advisory Panel; 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 Folk Arts Advisory Panel to the National Council on the Arts to be held on June 10-12, 1982, from 9:00 a.m.-5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 12th from 11:00 a.m.-12:30 p.m. to discuss policy.

The remaining sessions of this meeting on June 10th and 11th from 9:00 a.m.-5:30 p.m. and June 12th from 9:00 a.m.-11:00 a.m. and 12:30 p.m.-5:30 p.m. 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.

May 14, 1982.

[FR Doc. 82-13957 Filed 5-20-82; 8:45 am]

BILLING CODE 7537-01-M

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

Date: June 8-9, 1982.

Time: 9:00 a.m. to 5:30 p.m. on June 8, 1982; 9:00 a.m. to 12:00 noon on June 9, 1982.

Room: 807.

Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of Public Programs, for projects beginning after September 1, 1982.

Date: June 10-11, 1982.

Time: 9:00 a.m. to 5:30 p.m.

Room: 911.

Program: This meeting will review applications submitted for the Youth Projects Program, Division of Special Programs, for projects beginning after October 1, 1982.

The proposed meetings 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. Because the proposed meetings will consider information that is likely to disclose:

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation of proposed agency action;

Pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings,

dated January 15, 1978, I have determined that these meetings 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 about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call 202-724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-13939 Filed 5-20-82; 8:45 am]

BILLING CODE 7536-01-M

Music Advisory Panel (Policy); 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 Music Advisory Panel (Policy) to the National Council on the Arts will be held on June 10-11, 1982, from 9:00 a.m.-5:30 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 10th from 9:00 a.m.-5:30 p.m. and on June 11th from 9:00 a.m.-1:00 p.m. to discuss policy and guidelines.

The remaining sessions of this meeting on June 11th from 1:00 p.m.-5:30 p.m. 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) 634-8070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

May 14, 1982.

[FR Doc. 82-13958 Filed 5-20-82; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Behavioral and Neural Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Behavioral and Neural Sciences Subpanel for Anthropology (Radiocarbon competition).
Date and Time: June 14, 1982; 9:00-6:00 p.m.
Place: National Science Foundation, 1800 G Street, N.W., Room 628.

Type Meeting: Closed.

Contact Person: Dr. John E. Yellen, Program Director for Anthropology NSF, Room 320, Washington, D.C. 20550.

Summary of Minutes: May be obtained from the Contact Person, at the above address.

Purpose of Committee: To provide advice and recommendations concerning NSF support for radiocarbon laboratory development for archaeological application.

Agenda: The purpose of the closed meeting is to review and evaluate radiocarbon dating proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature—including technical information, financial data (such as salaries), and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c) Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

May 18, 1982.

[FR Doc. 82-13936 Filed 5-20-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-368]

Arkansas Power and Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. NPF-6 issued to Arkansas Power and Light Company (the Licensee), which changed the list of conditions in the body of the license for

operation of Arkansas Nuclear One, Unit No. 2, located in Pope, County, Arkansas. The amendment is effective, as of its date of issuance.

The amendment modifies the body of the license by deleting conditions which have been satisfied by the completion of verification testing relating to the operation of the reactor protection system's core protection calculator system.

The Commission has made appropriate findings as required by Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the 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 the amendment.

For further details with respect to this action, (1) see Amendment No. 31 to License No. NPF-6, and (2) the Commission's related Safety Evaluation. Both 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 Arkansas Tech University, Russellville, Arkansas. A copy of these items may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director of Licensing.

Dated at Bethesda, Maryland this 12th day of May 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-14009 Filed 5-20-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-366]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. NPF-5, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric

Authority of Georgia, and City of Dalton, Georgia, which revised Technical Specifications (TSs) for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 2 (the facility) located in Appling County, Georgia. The amendment is effective as of the date of issuance.

These changes to the TSs involve a surveillance requirement related to the safety-relief valve tail-pipe pressure switch setpoint, implementation of inerting of Unit No. 2, and replacement of the recirculation pump fire protection sprinkler system by the inerted drywell atmosphere.

The applications for the amendment comply 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 to this action, see (1) the applications for amendment dated April 23, 1982, and April 29, 1982, as supplemented May 3, 1982, (2) Amendment No. 29 to License No. NPF-5, 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 Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. 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 13th day of May 1982.

For The Nuclear Regulatory Commission.

ohn F. Stolz,

Chief, Operating Reactors Branch #4,
Division of Licensing

FR Doc. 82-14011 Filed 5-20-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

**Portland General Electric Co., et al;
Issuance of Amendment to Facility
Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment revises the surveillance requirements for the pressurizer power-operated relief valves.

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 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 to this action, see (1) the application for amendment dated February 10, 1982, (2) Amendment No. 73 to License No. NPF-1 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 local public document room located at the Multnomah County Library, Social Science and Science Department, 801 SW. 10th Avenue, Portland, Oregon 97205. 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 12th day of May 1982.

For the Nuclear Regulatory Commission.
Robert A. Clark,
Chief, Operating Reactors Branch No. 3,
Division of Licensing.

[FR Doc. 82-14011 Filed 5-20-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-443/444]

**Public Service Co. of New Hampshire,
et al.;¹ Availability of the Draft
Environmental Statement for Seabrook
Station, Units 1 and 2**

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-0895) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Seabrook Station, Units 1 and 2, located in Rockingham County, New Hampshire.

This Draft Environmental Statement (DES) addresses the aquatic, terrestrial, radiological, social and economic costs and benefits associated with normal station operation. Also considered are station accidents, their likelihood of occurrence and their consequences.

This DES is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and at the Exeter Public Library, Front Street, Exeter, New Hampshire 03883. The DES is also being made available at the Office of the Coordinator of Federal Funds, Room 124, State House, Concord, New Hampshire 03301 and at the Strafford Rockingham Regional Council, 1 Water Street, Exeter, New Hampshire 03833. Request for copies of the DES should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Technical Information and Document Control.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the DES

¹The current applicants for the operating licenses for Seabrook Station are: Bangor Hydro-Electric Company, Central Maine Power Company, Central Vermont Public Service Corporation, Commonwealth Energy Systems, Connecticut Light & Power Company, Fitchburg Gas & Electric Light Company, Hudson Light & Power Department, Maine Public Service Company, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, Public Service Company of New Hampshire, Taunton Municipal Lighting Plant, The United Illuminating Company, and Vermont Electric Cooperative Inc.

[other local agencies may obtain these documents upon request].

Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Exeter Public Library. Comments are due by July 6, 1982. After consideration of the comments submitted on the DES, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the Federal Register.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of May 1982.

For the Nuclear Regulatory Commission,
Frank J. Miraglia,
Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-13790 Filed 5-20-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co., et al. (Beaver Valley Power Station, Unit No. 1); Exemption

Correction

In FR Doc. 82-12783 appearing on page 20228 in the issue of Tuesday, May 11, 1982, make the following correction:

On page 20230, first column, second complete paragraph, in the fifth line, "will relieve" should have read "will not relieve".

BILLING CODE 1505-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Metal Components; Meeting

The ACRS Subcommittee on Metal Components will hold a meeting on June 7, 1982, at EPRI (Electric Power Research Institute), 3412 Hillview Avenue, Palo Alto, CA in the Conference Center behind Building No. 1. The Subcommittee will review the status of the steam generator problems and its probable resolutions with the Steam Generators Owners Group and Industry. In addition, the Subcommittee will review the TMI-1 steam generator concerns.

In accordance with the procedures outlined in the Federal Register on

September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to the public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information and industrial security. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4.) To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Monday, June 7, 1982—8:30 a.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., DST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information and industrial security. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: May 18, 1982.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 82-14115 Filed 5-20-82; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18744; (SR-NSCC-82-5)]

National Securities Clearing Corporation ("NSCC"); Order Approving Proposed Rule Change

May 17, 1982.

On March 26, 1982, NSCC filed with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b-4 thereunder, a proposed rule change that amends NSCC's current rules concerning admission, participants, and issues of securities, and specifies standards and procedures under those rules. More specifically, these rules and the standards and procedures thereunder include (i) minimum financial and operational standards for applicants to, and participants in, NSCC; (ii) guidelines for requiring applicants and participants that do not meet those minimum standards to provide NSCC with specified further assurances; and (iii) guidelines for monitoring securities issues that NSCC believes are volatile or otherwise present greater than normal financial risk to NSCC and its participants. NSCC made minor editorial changes to the proposal in a letter dated May 14, 1982.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of a Commission Release (Securities Exchange Act Release No. 18619, April 5, 1982) and by publication in the Federal Register (47 FR 15471, April 9, 1982). No letters of comment were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-13966 Filed 5-20-82; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2039]

Arkansas; Declaration of Disaster Loan Area

Faulkner County in the State of Arkansas constitutes a disaster area as a result of damage caused by severe storms and tornadoes which occurred on April 2, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 9, 1982, and for economic injury until February 10, 1983, at the address below:

Small Business Administration,
District Office,
320 West Capitol Ave.,
Suite 601,
Little Rock, Arkansas 72201.

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere, 15%⁰⁰

Homeowners without credit available elsewhere, 7%⁰⁰

Businesses with credit available elsewhere, 16½%⁰⁰

Businesses without credit available elsewhere, 8%⁰⁰

Businesses (EIDL) without credit available elsewhere, 8%⁰⁰

Other (Non-Profit Organizations including Charitable and Religious Organizations), 11½%⁰⁰

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Public Law 96-302.

Information on recent statutory changes (Pub. L. 97-35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: May 10, 1982.

James C. Sanders,
Administrator.

[FR Doc. 82-13968 Filed 5-20-82; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 05/05-0164]

SBC Resources, Ltd.; Application for License To Operate as a Small Business Investment Company (SBIC)

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 SBC Resources, Ltd. (SBC), 203 Huron View Boulevard, Ann Arbor, Michigan 48103, 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 (the Act), (15 U.S.C. 661 *et seq.*) and the Rules and Regulations promulgated thereunder.

The officers, directors and more than 10% owners of the corporate general partner and the individual general partners are as follows:

| Name and address | Title and relationship | Percent of profits and losses |
|---|---|-------------------------------|
| SBC Management, Inc., 230 Huron View Blvd., Ann Arbor, Michigan 48103. | Corporate General Partner. | 1.00. |
| Richard M. Wood, 230 Huron View Blvd., Ann Arbor, Michigan 48103. | General Partner of Applicant, President, Treasurer, Director and 50 percent owner of SBC Management, Inc. | 9.50. |
| L. J. Johnson, 2705 Lowell Road, Ann Arbor, Michigan 48103. | General Partner of Applicant, Chairman, Director and 50 percent owner of SBC Management, Inc. | 9.50. |
| Rex E. Jensen, 2209 South Circle Drive, Ann Arbor, Michigan 48103. | Secretary of SBC Management, Inc. | None. |

SBC Management, Inc. (SBC Management), is a Michigan Corporation which was formed August 13, 1981, for the sole purpose of serving as a Corporate General Partner to SBC. SBC Management has no operating history and currently has no substantial assets.

It is anticipated that the Applicant will begin operations with an initial private capital ranging from \$1,585,000 to \$2,175,000 depending upon the success of a private placement of limited partnership units to be offered in units of \$50,000 each. Subject to waiver by the General Partners, the minimum required investment will be three (3) units for a total of One Hundred Fifty Thousand Dollars (\$150,000) and the maximum allowable investment will be confined to less than ten percent (10%) of the Partnership's private capital.

The Applicant will conduct its operations in the State of Michigan.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness in accord with the Act and Regulations.

Notice is hereby given that any person may (not later than 15 days from the publication of this Notice) submit written comments on the proposed company to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Ann Arbor, Michigan.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 12, 1982.

Robert G. Lineberry,
Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-13967 Filed 5-20-82; 8:45 am]

BILLING CODE 8025-01-M

VETERANS ADMINISTRATION**Agency Forms Under OMB Review**

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). The list is broken into 2 categories listing a new form, and a revision. Each entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington DC, 20420 (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Gwen Pla, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-6880.

DATES: Comments on forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: May 7, 1982.

Robert P. Nimmo,
Administrator.

New

- (1) Department of Medicine and Surgery.
- (2) Agent Orange Follow-up Activities.
- (3) VA Forms 10-0021 (NR) and 10-0021.
- (4) Nonrecurring.
- (5) Individuals—veterans who have received an Agent Orange examination at VA medical centers.
- (6) 70,000.
- (7) 17,500.
- (8) Not applicable under section 3504(h), Pub. L. 96-511. The Agent Orange Registry form, consisting of an address update and follow-up questionnaire, will secure information (current address and examination follow-up questions) to be utilized relative to the review of possible adverse health impact of exposure to Agent Orange on those veterans with service in Vietnam who voluntarily reported to the VA for examination and medical follow-up.

Revision

- (1) Department of Veterans Benefits.
- (2) Monthly Report on Number of Inspection, Approval and Supervisory Visits to Schools and Training Establishments Furnishing Courses of Education and Training Under Chapter 36, Title 38 U.S.C.
- (3) VA Form 22-7398.
- (4) Monthly.
- (5) States—agencies of the States authorized to approve courses of education and training of veterans.
- (6) 900.
- (7) 900.
- (8) Not applicable under section 3504(h), Pub. L. 9-511. Authorized by 38 U.S.C. section 1774c. This form is used by the State approving agencies to report work performed in accordance with provisions of yearly reimbursement contracts.

[FR Doc. 82-13926 Filed 5-20-82; 8:45 am]
BILLING CODE 8320-01-M

**Barrington Recreation Center—
Expansion by the City of Los Angeles
on Land Leased From the Brentwood
Veterans Administration Medical
Center, Los Angeles, California; Finding
of No Significant Impact**

The Veterans Administration has assessed the potential environmental impacts that may occur as a result of the development of a public recreation area by the City of Los Angeles on 12 acres leased from the Brentwood Veterans

Administration Medical Center. The project site is located in Brentwood Community, just east and parallel to the 400 block of Barrington Avenue. The action will include: two multipurpose sports fields, jogging trails, 140 space parking area and portable restroom facilities.

The findings of the assessment conclude that the development of this property will not generate significant and/or adverse impacts on the environment.

With respect to traffic impacts, mitigation measures have been incorporated into the project scope of work to accommodate park patrons and neighborhood residents.

Noise, a concern of residents living in the vicinity of the site, will be generated during scheduled uses of the fields. However, any noise resulting from activities at the site will not exceed ambient noise levels, and will fall within the range of human tolerance.

Past disposal of wastes, consisting of low level medical radioisotopes, such as those used in radiology, nuclear medicine and laboratory research projects is an issue of concern among community and public officials. This issue was given extensive coverage in the environmental assessment. In evaluating the radiation hazards associated with converting a disposal site into a public recreation area the following groups or agencies conducted extensive testing specific to their area of expertise: 1. American Board of Health Physics. 2. Nuclear Regulatory Commission. 3. City of Santa Monica Water Company. 4. Hazardous Materials Management Section of the California Department of Health Services. 5. Nuclear Regulatory Commission's Uranium Fuel Licensing Branch. The results of the radiological assessment indicate that the overriding consensus among experts in the fields of nuclear medicine and radiation health and safety was that the site will not require any land use or public use restrictions. As added safety, major excavation activities will not occur during site preparation. Soil will be brought onto the site and spread, thereby increasing the depth of the buffer zone over the buried wastes.

In addition, construction dust and visual impacts will exist during development. These will be mitigated as necessary to insure minimal impacts on the human and natural environment.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Environmental Affairs Staff (005B), Room A14, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to: Director, Environmental Affairs Staff (005B), 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: May 14, 1982.

Robert P. Nimmo,
Administrator.

[FR Doc. 82-13961 Filed 5-20-82; 8:45 am]
BILLING CODE 8320-01-M

**Department of Veterans Benefits;
Revised Schedule of Cost Reviews**

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: In accordance with OMB Circular A-76, Policies for Acquiring Commercial or Industrial Products or Services Needed by the Government, the Veterans Administration established on page 41869 of the Federal Register of August 18, 1981, and amended on page 52475 of the Federal Register of October 27, 1981, a schedule of cost comparison reviews for services required by various field stations within the Department of Veterans Benefits. This notice temporarily delays implementation of the previously published review schedules with the exception of seven studies specified herein.

The delay is to allow reevaluation of government requirements for the functional areas indicated. The studies cited herein are in progress and will continue to completion.

FOR FURTHER INFORMATION CONTACT:

Robert A. Jones, Chief, Records Management and Supply Liaison Division, Department of Veterans Benefits (232B), VA Central Office, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389-2972.

Dated: May 14, 1982.
Robert P. Nimmo,
Administrator.

Functional area: Key punch.
Field station: White River Junction,
VT. Review date: December 15, 1981.

Functional area: Centralized
Transcription Activities.

Field Station and Review Date

- Albuquerque, NM; December 15, 1981.
- Houston, TX; December 15, 1981.
- Manchester, NH; December 15, 1981.
- Reno, NV; December 15, 1981.
- Seattle, WA; December 15, 1981.
- Togus, ME; December 15, 1981.

[FR Doc. 82-13962 Filed 5-20-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 99

Friday, May 21, 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).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, May 25, 1982.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Proposed Contract Market Designation of Leaded and Unleaded Gasoline—Chicago Board of Trade
Foreign Traders Discussion

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-758-82 Filed 5-19-82; 12:41 pm]

BILLING CODE 8351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., Tuesday, May 25, 1982.

PLACE: 2033 K Street NW., Washington, D.C., Fifth floor hearing room.

STATUS: Closed.

MATTER TO BE CONSIDERED:

Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-759-82 Filed 5-19-82; 8:45 am]

BILLING CODE 8351-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

Emergency Special Open Meeting,
Tuesday, May 18, 1982

The Federal Communications Commission held an Emergency Special Open Meeting on Tuesday, May 18, 1982 on the subject listed below, in Room 856,

at 1919 M Street, N.W., Washington, D.C.

Agenda Item No. and Subject

Common Carrier—1—Processing of Pending Space Station Applications in the Domestic Fixed Satellite Service.

The Prompt and orderly conduct of Commission business did not permit announcement of this matter prior to the meeting.

Action by the Commission May 18, 1982. Commissioners Fowler, Chairman; Washburn, Fogarty, Jones, Dawson and Rivera voting to consider this item with less than 7-days notice.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: May 18, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-760-82 Filed 5-19-82; 2:59 pm]

BILLING CODE 6712-01-M

4

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 21676, Wednesday, May 19, 1982.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Marshall (202-377-6679).

CHANGE IN THE MEETING: The following item has been withdrawn from the open portion of the Bank Board meeting scheduled for Thursday, May 20, 1982.

Perfecting of Security Interest in U.S. Government Securities Collateralizing Retail Repurchase Agreements

[No. 35, May 19, 1982.]

[S-757-82 Filed 5-19-82; 10:10 am]

BILLING CODE 6720-01-M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of May 10, 1982 (Changes) and Week of May 17, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: Thursday, May 20 (Additional item):

9:00 a.m.:

Discussion of Management-Organization and Internal Personnel Matters (closed—Exemptions 2, 6)

Tuesday, May 25:

10:00 a.m.:

Briefing on Human Factors Society Report (public meeting)

Wednesday, May 26:

10:00 a.m.:

Analysis of Licensing Board Decision for Susquehanna-1 Operating License (Tentative) (closed—Exemption 10)

1:30 p.m.:

Briefing on Investigatory Matters (closed—Exemption 5)

Thursday, May 27:

10:00 a.m.:

Discussion of Management-Organization and Internal Personnel Matters (closed—Exemptions 2 and 6)

1:30 p.m.:

Analysis of Licensing Board Decision for San Onofre Units 2 and 3 (Seismic) (closed—Exemption 10)

3:00 p.m.:

Affirmation/Discussion Session (public meeting)

Affirmation and/or Discussion and Vote:

- Final Amendment to 10 CFR Part 50 and to Appendix E: Modification to Emergency Preparedness Regulations Relating to Low Power Operation
- Proposed Rulemaking Accreditation of Qualification Testing Organizations

Friday, May 28:

10:00 a.m.:

Discussion of Enforcement Action (closed—Exemption 5) (postponed from May 21)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

May 18, 1982.

[S-761-82 Filed 5-19-82; 3:27 pm]

BILLING CODE 7590-01-M

6

POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote To Close Meeting

During its May 11, 1982 meeting, the Board of Governors of the United States Postal Service unanimously voted to close to public observation a portion of the meeting. The portion to be closed was to involve a discussion concerning the procurement of services to study Postal Service EEO practices.

The Board determined, pursuant to 5 U.S.C. 552b(c)(9)(B), that the portion of the meeting to be closed was exempt from the open meeting requirement of the Sunshine Act on the grounds that the public interest did not require otherwise and that the portion to be closed was likely to disclose information whose premature disclosure was likely to significantly frustrate the negotiation of the proposed contract.

The members of the Board voting in favor of closing this portion of the meeting were: Messrs. Babcock, Benson, Bolger, Camp, Hardesty, Mrs. Hughes, Messrs. Jenkins, McKean, and Sullivan.

Prior to the May 11 meeting, the Board of Governors gave due notice of its intention to hold the meeting, the notice and the proposed agenda for the meeting having been published in the Federal Register on May 4, 1982 (47 FR 19266). On May 11, the Board determined by a unanimous vote that a change in the earlier plan to conduct this portion of the meeting in the open was required and that no earlier announcement of the change was possible.

In accordance with 5 U.S.C. 552b(f)(1), the Acting General Counsel of the

United States Postal Service certified that in his opinion the portion of the meeting to be close might properly be closed to public observation pursuant to 5 U.S.C. 552b(c)(9)(B).

The persons who attended this closed portion of the meeting were Board members Babcock, Benson, Bolger, Camp, Hardesty, Hughes, Jenkins, McKean, and Sullivan; Assistant Secretary to the Board Sanders; and counsels to the Board Califano and Geolot.

W. Allen Sanders,

Assistant Secretary.

[S-756-82 Filed 5-19-82; 9:57 am]

BILLING CODE 7710-12-M

Federal Register

Friday
May 21, 1982

Part II

Department of Labor

Mine Safety and Health Administration

Criteria and Procedures for Proposed Assessment of Civil Penalties

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 100

Criteria and Procedures for Proposed Assessment of Civil Penalties

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This final rule revises the Mine Safety and Health Administration's (MSHA) existing procedures for proposing civil penalties under the Federal Mine Safety and Health Act of 1977 (Act). These changes restructure the civil penalty system to permit MSHA and the mining community to refocus their safety and health efforts on more serious mine hazards. MSHA believes that these revisions also provide more effective incentives for the prevention of conditions and practices that may result in injury or illness to the Nation's miners.

EFFECTIVE DATE: May 21, 1982.

Effect on prior regulations: The prior regulations (30 CFR Part 100) remain in effect for the processing of all citations and orders where an initial review under § 100.5(b) has been issued before May 21, 1982.¹

FOR FURTHER INFORMATION CONTACT:

Lawrence Beeman, Acting Director, Office of Assessments, MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203, phone (703) 235-1484.

SUPPLEMENTARY INFORMATION:**I. Rulemaking Background**

Under sections 105(a) and 110 of the Federal Mine Safety and Health Act of 1977 (Act), MSHA is required to assess a civil penalty for all violations of the Act and mandatory safety and health standards.

On May 30, 1978 (43 FR 23514), MSHA published a final rule which governed the proposed assessment of civil penalties under the Act. This final rule included a "formula system" for determining most proposed penalties.

At the time of promulgation of the 1978 final rule, MSHA stated that the rule would be reevaluated to determine the need for possible changes. This review process was initiated during July 1979 when MSHA announced the first

phase of its evaluation by soliciting public comments and recommendations. After evaluating the comments, MSHA developed and published on November 7, 1980, a proposed rule to revise 30 CFR Part 100 (45 FR 74444). The proposal represented an effort to provide more effective incentives for the prevention of conditions and practices that may result in injury or illness to miners. Following the publication of the proposed rule, interested persons were given 90 days to submit written comments and objections, and to request public hearings.

On January 15, 1982 (47 FR 2335), MSHA published a notice of public hearing which outlined the major issues raised during the rulemaking. In the notice, MSHA included refinements to the proposed single penalty² and good faith provisions to permit the mining community to refocus its resources on the more serious safety and health hazards and to provide increased incentives for mine operators to correct hazardous conditions.

During February 1982, public hearings were held in Pittsburgh, St. Louis, and Salt Lake City. All three hearings were well attended by representatives from all segments of the mining community. Transcripts of the proceedings were taken and made available for public inspection. Following the public hearings, interested persons were allowed to submit supplementary statements or data until March 5, 1982, when the record was closed. During this rulemaking process, MSHA has received and reviewed over two hundred written comments and statements from interested parties.

II. Discussion and Summary of the Final Rule**A. General Discussion**

In the legislative history of the Act, Congress expressed its belief that mandatory civil penalties were one of the mechanisms necessary to obtain maximum inducements for compliance with the Act. The statutory civil penalty system establishes six criteria for consideration in determining appropriate penalties for violations of the Act. They are:

- (1) The appropriateness of the penalty to the size of the business of the operator charged;
- (2) The operator's history of previous violations;
- (3) Whether the operator was negligent;
- (4) The gravity of the violation;

²In the proposal, § 100.4 was designated as the "minimum penalty assessment" procedure.

(5) The demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation; and

(6) The effect of the penalty on the operator's ability to continue in business.

A formula system for proposing civil penalties was first established in 1974 for use by MSHA's predecessor agency, the Mining Enforcement and Safety Administration (MESA). For each violation, the formula system assigns specific numerical point values to the statutory criteria which are then converted to a dollar amount, using a prescribed penalty conversion table. The resulting dollar amount constitutes the proposed penalty. In 1978, revisions were made which reflected the expressed intention of Congress in the Act. As a result of those revisions, the formula was adjusted and the assessment procedures were modified to improve the timeliness of administrative decisions.

In the preamble to the 1978 rules, MSHA stated that once experience had been gained under the Act, the rules would be evaluated to determine the need for possible changes. On July 30, 1979, MSHA announced that such an evaluation had begun and solicited public comments and recommendations. Many written comments were received and several informal meetings with interested persons were held to discuss possible revisions to the rules. After carefully considering this public input, a proposal was developed.

In this rulemaking, MSHA has sought to accomplish four basic objectives: Improved fairness in the application of the statutory criteria; increased incentives for operators to comply with the Act; a refocusing of safety and health efforts toward the more serious mine hazards; and a streamlining of the civil penalty process. MSHA believes that the final rule achieves these goals.

The major elements of the final rule are:

- (1) The creation of a \$20 single penalty for less serious violations;
- (2) The awarding of greater good faith credit for timely abatement;
- (3) A potential for increased penalties for more serious violations; and
- (4) The establishment of separate formula tables for independent contractors who violate the Act.

MSHA received a broad range of comments on the proposal. While many commenters supported the proposal, others objected. Those who raised objections were primarily concerned that it would result in a lessening of MSHA's commitment to safety and

¹Section 100.5(b) of the prior rule: "The Office of Assessments shall make an initial review of the citation or order and shall immediately serve, by regular mail, a copy of the results of the initial review, including the formula computations made by the Office, upon the party to be charged and the miners or their representatives at the mine."

health. MSHA has carefully evaluated all of the concerns and objections to the proposal. The Agency's primary purpose will continue to be the reduction of injuries, illnesses and fatalities in the mines, including the prevention and early correction of hazardous conditions. MSHA has refocused safety and health efforts on those hazards which have the greatest impact on the safety and health of miners, and has established more serious consequences for actions associated with noncompliance.

MSHA believes that this final rule is responsive to the commenters' concerns. MSHA has adjusted the proposal to reflect many of those concerns, and has clarified elements of the proposal with respect to the obligations and responsibilities of both MSHA and the mining community. The final rule focuses attention toward more serious violations while still requiring abatement of all violations. MSHA believes that this final rule will result in improved miner safety and health.

In an effort to improve safety and health through cooperative efforts, MSHA is reorganizing its management responsibilities. One aspect of this reorganization is to provide District Managers with all the resources necessary to develop a comprehensive safety and health program. Part of this process involves a safety and health conference which is intended to provide an opportunity for full discussion by all parties on the issues related to the safety and health inspection.

B. Section-By-Section Analysis of the Final Rule

The following section-by-section analysis discusses the final rule and the major issues raised by the comments and objections.

Section 100.1 Scope and Purpose. This section explains that Part 100 sets forth the criteria and procedures used in the proposed assessment of civil penalties. The section also establishes that the purpose of this rule is to provide fair and equitable procedures for the application of the statutory criteria in determining proposed penalties, and to maximize the incentives for mine operators to prevent and correct hazardous conditions. The final rule for this section is consistent with the proposal, while retaining the prior rule's commitment to the prompt and efficient processing and collection of civil penalties.

Commenters questioned whether this reorientation would result in a lessening of safety and health enforcement. MSHA's use of the phrase "fair and equitable" in this section is intended to

convey and approach to enforcement which reflects an appropriate response to the seriousness of the violation.

Section 100.2 Applicability. This section outlines the application of the rule. The proposal made a wording change which eliminated unnecessary language. The final rule differs from the prior rule in that editorial changes have been made to conform to the Agency's reorganized management functions.

Several commenters suggested that MSHA include a statement in the final rule which would limit to two years the time MSHA would have to apply the civil penalty regulations to violations. MSHA believes it is unnecessary to incorporate such a limitation provision into the final rule. All citations for violations of the Act will be processed as quickly as possible and without undue delay.

Section 100.3 Determination of Penalty; Regular Assessment, 100.3(a) General. This provision establishes the basic elements in the formula for the application of the statutory criteria to those violations which are not processed under the single (minimum) penalty assessment (§ 100.4) or special assessment (§ 100.5) procedures. The formula is an administrative mechanism used by MSHA to determine the appropriate penalty by applying the statutory criteria to the particular facts surrounding a violation. When a proposed penalty is contested, neither the formula nor any other aspect of these regulations applies. If the proposed penalty is contested, the Mine Safety and Health Review Commission exercises independent review, and applies the six statutory criteria without consideration of these regulations.

The proposal made no changes to the prior rule nor were any significant changes suggested by public comments. Therefore, the general provisions of the regular assessment section remain unaltered except for an editorial change in the last paragraph making the good faith criterion (§ 100.3(f)) computation consistent with other changes in the final rule.

100.3(b) Appropriateness of the Penalty to the Size of the Operator's Business. The purpose of this criterion is to assure that the size of a business is appropriately considered when determining the amount of a proposed penalty.

The prior rule contained separate size tables for coal mines, metal and nonmetal mines, and controlling companies. Metal and nonmetal mines were measured by annual hours worked, while coal mines were measured by tonnage produced. Up to 10 points could be assigned for individual mine size;

and five points could be assigned based on the size of the controlling entity. MSHA proposed retaining the prior rule's measure of size. However, a separate size table was proposed for independent contractors.

Several commenters opposed the use of controlling entity to determine mine size stating that each operating mine should be considered regardless of ownership control. Further, they stated that this approach would result in a more equitable computation of size since each mine would be considered on its own merit. Other commenters believed that the size of the controlling entity is an appropriate aspect of mine size.

MSHA believes that business judgments affecting health and safety may be made at various levels of a business structure and that civil penalties should encourage management at all levels to respond positively to health and safety concerns. In the legislative history of both the Act and its predecessor statute, Congress expressed an intent to place the responsibility for compliance with the Act on those who control or supervise the operation of mines as well as on those who operate them. S. Rep. No. 91-411, 91st Cong. 1st Sess. 39 (1969); S. Rep. No. 95-181, 95th Cong. 1st Sess. 40 (1977). Upper level management decisions such as those affecting capital expenditures, the basic nature and scope of a corporate safety and health program, the hiring of top mine management officials, and other policy matters have a profound effect upon safety and health conditions at individual mines. MSHA believes that civil penalties should therefore be structured to influence all levels of decisionmaking. Accordingly, the final rule retains the concept of controlling entity as an aspect of the size criterion of the formula.

MSHA has changed the term "controlling company" to "controlling entity" to clarify that this aspect of the size criterion can be applied to anyone who has a substantial interest in a mine, including an individual.

Another issue raised by the comments was whether total hours worked or tonnage produced is a better indicator of coal mine size. Several commenters suggested that the use of hours worked would more accurately measure coal mine size and would be consistent with the method for determining the size of metal and nonmetal mines. Other commenters believed that tonnage produced should continue to be used to determine coal mine size. The principal purpose of the size criterion is to aid in assuring that the amount of the penalty

is an appropriate economic incentive for future compliance by the operator. Over the past several years, the size of coal mining companies has been measured by tonnage produced, and MSHA has found this method to be a reasonable indicator for the size of coal operations. After review of the Agency's experience and public comments, the final rule retains tonnage produced as the method of measuring the size of coal operations.

For metal and nonmetal mining operations, tonnage produced is not usually a useful indicator of size because of the vast differences in the commodities mined within that segment of the mining industry. In some instances, large volumes of material are mined for only a few ounces of a marketable commodity; in others, nearly one hundred percent of the mined material is marketable. In addition, the costs of production and the market prices may vary markedly within the metal and nonmetal industry. MSHA believes that an annual tonnage measurement of metal and nonmetal operations would not enable the Agency to fairly evaluate the economic impact of the proposed penalty on each operator. It is MSHA's experience that annual hours worked is the best guide for measuring the size of metal and nonmetal operations and that this guide can be applied fairly in this segment of the mining industry. Therefore, the final rule retains hours worked as a measure of metal and nonmetal mine size.

Under the prior rule, violations involving independent contractors were handled through the special assessment procedure. The final rule retains the proposed new size table for independent contractors, consistent with MSHA's jurisdiction over independent contractors (30 CFR Part 45). Most commenters favored this aspect of the size criterion, which enables MSHA to more effectively integrate independent contractors into the entire penalty assessment process. The new table measures the size of independent contractors by annual hours worked at all mining operations, regardless of the commodity being mined. MSHA believes that the annual hours worked at mines appropriately reflect the comparative size of independent contractors.

100.3(c) History of Previous Violations. This criterion is designed to assure that appropriate consideration is given to an operator's prior safety and health record.

Under the prior rule, up to 15 points could have been assessed based upon the average number of violations assessed at the mine per inspection day during the preceding 24-month period. An additional five points could have

been assigned based upon the average number of violations assessed at the mine per year in the preceding 24 months. The mine operator's history of previous violations consisted of all assessed violations which had not been vacated or dismissed, and included those under appeal.

The proposal established two schedules which assessed a maximum number of 20 points for violation history. For mine operators, the schedule measured a mine's average violations per inspection day during the preceding 24-month period. For independent contractors, a separate schedule measured the average number of violations assessed per year in the preceding 24 months. In addition, the proposal deleted the prior rule's schedule which allocated up to five penalty points for the average number of violations per year. The proposal also provided that only violations which have become final would be included in the computation of history. However, violations which received the single assessment under § 100.4 and were paid in a timely manner would not be included as part of history.

Many commenters agreed that MSHA should not include as part of history those violations which are still in the adjudicatory process and may ultimately be dismissed or vacated. Other commenters stated that all violations including those under appeal should be included in history. MSHA believes that a greater measure of fairness is attained if history points are based only upon those violations which have been finally adjudicated. Some commenters suggested that such a change would cause operators to litigate more citations for the purpose of creating a more favorable history record. The Agency does not expect that this change in the rule will result in an increased number of contested citations. Therefore, under the final rule, only violations which have been paid or finally adjudicated will be considered in determining the operator's history of violations.

Some commenters supported and others objected to the exclusion of single penalty violations from the operator's history. MSHA believes that only violations which involve a reasonable likelihood of reasonably serious injury or illness should be included in an operator's history of violations. This would allow the history criterion to more accurately reflect the frequency of violations which involve greater hazards to miners. Single penalty violations have minimal impact on safety and health and should not be included in the operator's history.

Therefore, the final rule excludes violations which receive the single penalty and which are paid in a timely manner from consideration in determining history of violations.

There are numerous comments with respect to the term "inspection day." Some commenters urged MSHA to base the determination of an inspection day not only on the time spent by the Authorized Representative of the Secretary (AR), but also by all other persons accompanying an AR who may identify violations, such as inspector-trainees or miners' representatives. Since an AR has received the requisite training to conduct inspections and identify violations and is the only individual who may issue citations or orders, it is MSHA's view that it would be inappropriate to consider the time of other persons accompanying an AR. Therefore, MSHA will consider only the time of Authorized Representatives of the Secretary when computing the number of inspection days.

Points assigned under this criterion are based upon a review of the average number of assessed violations at a mine during a preceding 24-month period. Several commenters suggested that in evaluating history of previous violations, MSHA should review a period of 12 months instead of 24 months. These commenters maintained that considering a shorter period of 12 months would better reflect changes in a mine's safety and health performance. MSHA has considered these comments and believes that such an approach would not be appropriate, particularly for mines which are inspected on a less frequent basis. Information accumulated over a shorter period may not provide sufficient data to accurately reflect safety and health trends in many mining operations. Therefore, MSHA has retained 24 months as the period to be reviewed for both history tables.

Some commenters objected to the proposed deletion of the schedule which would allocate five points based on the average number of assessed violations per year when determining history of violations. Others agreed that it should be eliminated, indicating the schedule tended to produce higher penalty points for large mines because of their size without fairly correlating to their relative overall safety. Commenters who suggested that the five point schedule be dropped also recommended that these points be added to the 15-point schedule for the average number of violations per inspection day in the preceding 24 months. The final rule includes a 20-point table for average number of violations per inspection day as the

basis for determining a production operator's history of previous violations. MSHA believes that this change reflects a more accurate picture of a mine's history of violations and represents a more consistent method for determining history points.

Under the proposed schedule for evaluating a mine's average number of violations per inspection day in the preceding 24-month period, the maximum of 20 points would be assigned for an average of over 2.1 violations per inspection day. This average is a statistical extension of the 1.7 violation average used as a maximum in the prior 15 point schedule. Several commenters suggested that 2.1 violations per inspection day is an unrealistically low average and should be increased. MSHA has considered the potential impact of this aspect of the size criterion, and believes that the revised table will be a fair and effective method of evaluating a production operator's history of violations for purposes of civil penalty assessments.

In contrast to production operators, the nature of most services performed by independent contractors at mines does not lend itself to a violations per inspection day table. As a result, this rule establishes a 20-point table based upon the average number of violations assessed per year for independent contractors. There were no significant objections to this aspect of the proposal. Since MSHA inspections often encompass both operations at the same time, the complexities of separating inspection time for purposes of computing days are substantial. While independent contractor activities are often closely integrated into the overall mining operation, they frequently involve only a fraction of the time spent in an inspection day. Therefore, MSHA believes that the violation per inspection day table would not be fair and equitable for independent contractors.

Some commenters believed that an operator's safety and health performance record should also be incorporated as a factor in determining a proposed penalty. While this concept has some merit, MSHA believes that a more complete evaluation is necessary to determine its appropriate role in the assessment of civil penalties. Therefore, this concept is not adopted at this time.

100.3(d) Negligence. The negligence criterion is designed to evaluate an operator's actions relative to the existence of a violation. Under the prior rule, a total of up to 25 points could be assessed for negligence; from one to 20 points for ordinary negligence, and from 21 to 25 points for gross negligence.

In the proposed rule, MSHA revised the language of this section to clarify the concept of negligence and identify some of the factors to be considered. The proposed rule also stated that an operator's exercise of care should increase with the risk posed to the miners. Therefore, the negligence of an operator would be evaluated based on the degree of care exercised by the operator and the danger to miners. Both the prior rule and the proposal provided for the assignment of one to 20 penalty points for negligence if the operator failed to take reasonable measures to prevent or correct a condition or practice which was known or should have been known to exist. Extremely serious instances of negligence received from 21 to 25 points.

Some commenters objected to the proposal's consideration of gravity in evaluating the negligence criterion. These commenters stated that the risk posed by a violation was already accounted for under the gravity criterion, and that the proposal unfairly considered the gravity of the violation a second time.

For purposes of evaluating the negligence of an operator, MSHA believes that a general recognition of the risk involved in a violation is relevant to determining the care to be exercised by the operator in preventing the violation and protecting the miners from the hazard posed. MSHA does not believe that further consideration of the gravity involved in a violation is necessary for evaluating negligence. The regular assessment procedure is generally applicable only to violations which involve a reasonable likelihood of a reasonably serious injury or illness. MSHA believes that mine operators must exercise the highest degree of care in preventing these serious violative conditions or practices and in protecting miners from safety and health hazards.

Commenters also desired to see a more even division of the potential 25 penalty points. Other commenters expressed the view that the concept of negligence for purposes of civil penalty assessment needed to be clarified.

The final rule provides five categories for evaluating the degree of negligence involved in a violation. The five categories are: "No negligence," "low negligence," "moderate negligence," "high negligence," and "reckless disregard." In developing these categories, MSHA has responded to the concerns of commenters that further clarification of the allocation of negligence points was necessary and that due consideration be given to all

factors bearing on the operator's negligence.

Each category reflects the operator's efforts with respect to preventing the violation and assigns negligence points on this basis. "No negligence," which contributes no points to a civil penalty assessment, is defined as conduct characterized by diligence, when the operator neither knew nor should have known of the violative condition or practice. "Low negligence" is defined as circumstances where the operator knew or should have known of the violative condition or practice, but there are considerable mitigating circumstances. This category is assigned ten points in recognition of the seriousness of the violation and the absence of diligence. Generally, only violations which are reasonably likely to result in a reasonably serious injury or illness are subject to the regular assessment process and specific application of the negligence criterion. Negligence which is accompanied by some mitigation is classified as "moderate" and would receive 15 points. Negligence without mitigating circumstances is classified as "high" and would receive 20 points. Where an operator recklessly disregards compliance, 25 penalty points would be assigned.

MSHA has developed these categories of negligence, which include mitigating circumstances, to allow the inspector the flexibility to consider all of the facts and circumstances surrounding a violative condition or practice. For example, an inspector may determine that the negligence involved is low or moderate where there is a reasonable likelihood of a reasonably serious injury occurring from the condition or practice because the operator, although negligent, has taken measurable steps to prevent the violation or protect miners from exposure to the hazard. Mitigating circumstances may include, but are not limited to, actions which an operator has taken to prevent, correct or limit exposure to a violative condition or practice. An operator's action could be taken into consideration to the extent that it directly relates to the specific violation cited. In making decisions with respect to the nature or existence of mitigating circumstances, inspectors will exercise independent judgment based on the circumstances surrounding the violation. MSHA believes that this allows flexibility to assess the degree of negligence within the context of the individual facts and circumstances of any particular situation.

The "reckless disregard" category, for which the maximum number of points would be assigned, is characterized by

conduct which exhibits the absence of even the slightest degree of care.

MSHA believes that this approach to the negligence criterion is responsive to the comments recommending more definite criteria for the assignment of penalty points within the prior rule's range of one to 20 points for ordinary negligence. In addition, this aspect of the final rule is consistent with MSHA's overall goal of refocusing safety and health efforts on serious mine hazards and encourages operators to take necessary actions to prevent miners' exposure to such hazards.

100.3(e) Gravity. This section of the formula contains three tables which are used to evaluate the gravity of a violation. It is designed to assure that the amount of the penalty takes into consideration the seriousness of a violation. Under the prior rule, the tables measured three aspects of gravity: (1) Probability of occurrence; (2) the seriousness of an injury if it occurred or were to occur; and (3) the number of persons affected. Each table accounted for up to 10 penalty points. A total of 30 penalty points could be assigned under this criterion. These tables were applied to both safety and health violations.

The proposal attempted to refine the formula's ability to measure the gravity associated with a violation by developing additional tables to evaluate the gravity of health violations. The proposed health tables were designed to evaluate employee exposure to toxic substances or harmful physical agents by examining the risk to human health and the magnitude of overexposure. An additional health table was included which was based upon the number of personnel potentially affected.

Commenters to the proposal identified several practical problems with the proposed health tables. The major difficulties pertained to the proposal's absence of a basis for determining whether a risk effect was high, medium, or low and the lack of a distinction between high dosage with short-term exposure situations, and those involving a low dosage with long-term exposure. Commenters were also concerned about the assignment of points for the degree by which the threshold limit value was exceeded, regardless of the relative toxicity of the substance involved. MSHA sought additional comments in the notice of hearings regarding whether the proposed health schedule should be amended to correct these difficulties. Alternatively, MSHA requested comment as to whether the existing gravity schedule, applying to both safety and health violations, should be retained.

Testimony and comments received during the hearings continued to emphasize the difficulties of developing a separate health schedule for gravity which would not be excessively complex or cumbersome. Commenters noted that the task of evaluating each individual health violation is also often complicated by the fact that immediate harm may not be detectable. Further, they stated that exposures to health hazards often affect the health of miners over extended periods of time with the measurable health impact of an isolated incident being difficult to assess.

For these reasons, most commenters favored the retention of the single gravity schedule for both safety and health violations. Although some commenters did suggest that a separate health schedule be included in the final rule, MSHA believes that the issues surrounding the establishment of an independent gravity schedule for health violations would be better addressed through a separate review. Therefore, the final rule retains gravity tables which are very similar to those in the prior rule.

In an attempt to provide additional clarification, the proposal modified the gravity table relating to the likelihood of occurrence. In the proposal, the table measured one aspect of gravity according to whether the occurrence of the event against which a standard is directed poses "no likelihood," is "unlikely," "likely," "highly likely," or "occurred," with assigned penalty points of zero, two, five, seven, and ten, respectively. In the final rule, "reasonably likely" is substituted for "likely" to be consistent with the rule's distinction between serious and less serious violations.

Under the final rule, the classification of "no likelihood" generally refers to technical type violations which pose no risk to miners. An "unlikely" probability of occurrence applies to those situations where the occurrence of injury or illness is remote but possible. Some commenters noted that under the prior rule the term "probable" referred to injuries or illnesses which were likely to occur and received three penalty points, while under the proposed rule the term "likely" in the same gravity table receives five penalty points. Under the final rule, violations processed through the regular formula would be assigned five penalty points where the occurrence of the event is "reasonably likely," compared to three points in the prior rule where the likelihood was "probable." This change was supported by some commenters and is consistent with MSHA's objective to refocus

attention on more serious mine safety and health hazards. The second gravity table, assessing the severity of injury or illness normally expected, describes and allocates penalty points in the same manner as in the prior rule. The third table, measuring the number of persons potentially affected if the event occurred or were to occur, also retains the prior rule's language and point allocation for this aspect of gravity.

A violation involving no reasonable likelihood of a reasonably serious injury or illness occurring may be eligible for the single penalty assessment provided that the violation is abated within the time set by the inspector. A full discussion of this provision follows in § 100.4 (single penalty assessment).

100.3(f) Demonstrated Good Faith of the Operator. The purpose of the good faith criterion is to provide credit to operators for timely correction of mine safety and health hazards.

Under the prior rule, negative points from minus one to minus 10 could have been assigned for rapid compliance, zero points for normal compliance, and positive points from one to 10 could have been added for lack of good faith. (Negative points are those which are subtracted from the point total in determining the number of penalty points attributable to a particular violation).

The proposal identified and defined three categories which addressed the timeliness of the operator's actions to abate the violations and would have assigned points ranging from minus 10 to plus 10 penalty points. In the proposal, minus three points would have been assigned for good faith compliance. The proposal retained the prior rule's range for lack of good faith.

In the notice of hearing, MSHA refined the proposal to consider a fixed percentage reduction in the proposed penalty amount for violations processed through the regular formula system which are abated within the time set by the inspector. MSHA specifically requested comments with respect to an appropriate percentage reduction. Some commenters supported the proposal as refined in the public hearing notice, while others objected. Those who supported the fixed percentage reduction generally believed this revision would increase operator incentives to correct violations as quickly as possible. Further, they suggested a range of 20-50% as an appropriate percentage reduction. However, some of these commenters did suggest that an additional 10-20% reduction be awarded for extraordinary abatement efforts. Commenters who

opposed a fixed percentage reduction generally believed that this would not provide incentives for operators to comply with the Act, but would instead encourage operators to let hazardous conditions go unabated until cited.

After full review and evaluation of all comments, MSHA believes that a reduction in the proposed penalty based on operator efforts to abate safety and health hazards promotes the goal of providing increased incentives for operators to comply with the Act. Since the civil penalty system by its very nature addresses existing hazards, timely abatement is most critical to miner safety and health. The good faith criterion is the principal mechanism within the civil penalty formula for recognizing abatement, and MSHA believes that this revision encourages the early correction of hazardous conditions. Therefore this section of the final rule has been revised to provide a fixed 30% reduction in a proposed penalty amount when an operator corrects the hazard within the time set by the inspector, and the assignment of 10 penalty points when there is lack of good faith abatement.

The 30% reduction would apply to all citations processed through the regular formula system where the operator abates the hazard in the time set by the inspector. Under this approach, gravity, negligence, size and history would be assessed points under the formula and a monetary penalty determined. This amount would then be reduced by 30% where the violation is abated within the time set by the inspector. When abatement occurs after the time period allowed has elapsed, 10 points would be added.

100.3(g) Penalty Conversion Table. This provision sets out the table to be used to convert the total penalty points to a dollar amount which will comprise the proposed penalty.

The table in the prior rule set out individual dollar amounts from \$2 to \$10,000 corresponding to penalty points of from one to 100. The proposal eliminated dollar values below \$20 in recognition of the single penalty provision. All other values remained the same.

Some commenters suggested that a separate penalty table should exist for small mine operators. MSHA believes that small mine operators are given adequate consideration under the size criterion. However, if an operator believes that a proposed penalty would adversely affect the ability to continue in business, additional information may be submitted which could result in further reduction. See following discussion on § 100.3(h). MSHA believes

that one penalty conversion table will provide adequate consideration of all factors relating to violations which are processed through the regular formula system.

The final rule differs from the table in the proposal in that violations with 15 or fewer points will be assessed \$30 while the proposal provided that violations with 10 or fewer points would have been assessed a \$20 penalty. This adjustment was made to reflect a more appropriate distinction between single penalty and regular assessments. This section applies only to those violations which are processed through the regular formula system and, therefore, does not apply to single penalty violations or those processed through special assessments.

100.3(h) Effect on Operator's Ability to Remain in Business. This criterion involves consideration of the effect of the proposed penalty on the operator's ability to continue in business. A penalty may be reduced under this criterion where its imposition will adversely affect an operator's ability to continue in business. The proposed rule retained the language of the prior rule for this section. Commenters did not suggest changes to this criterion and MSHA believes that it is being applied equitably and effectively. Therefore, the prior rule remains unchanged except for editorial changes to conform to the Agency's reorganized management functions.

Section 100.4 Determination of Penalty; Single Penalty Assessment. This is a new section. It provides for the assessment of a \$20 single penalty for violations which are not reasonably likely to result in reasonably serious injury or illness. Single penalty violations which are paid in a timely manner will not be included in the operator's history. MSHA developed this provision to permit the mining community to focus its resources on those violations which have the greatest impact on miner safety and health. Under the proposal, this section was designated as the "minimum penalty" assessment procedure. In the final rule, MSHA has substituted the term "single penalty assessment" to clarify that \$20 is the only penalty an operator could receive under this section.

As proposed, this section provided for the assessment of a fixed single penalty of \$20 for violations involving low level gravity and no negligence. In the notice of public hearing, MSHA included a refinement of the proposed single penalty provision which would apply the single penalty to those violations which are not reasonably likely to result in a reasonably serious injury or illness.

Some commenters supported and others objected to the single penalty proposal as refined in the hearing notice. Those who supported this provision stated that it would permit a refocusing of resources on serious safety and health hazards. Specifically, they believed that it would reduce the time and resources associated with processing less serious violations and foster a more cooperative and productive environment for achieving safety and health in the mines. Those who opposed the proposal stated that it would not result in improved efficiency nor would it result in a reallocation of resources toward the most hazardous conditions. Further, they stated that the single penalty provision would not assure maximum operator compliance but would instead encourage operators to violate MSHA regulations.

After consideration of the comments, MSHA believes that the single penalty concept advances the objectives of this rule, and therefore has included this provision in the final rule. This provision permits the assessment of a \$20 penalty for violations which are not reasonably likely to result in reasonably serious injury or illness. A critical element in this provision is a requirement that the hazard be abated within the time set by the inspector. If the hazard is not abated within the time set by the inspector, the violation will not be eligible for the \$20 single penalty and will be processed through the regular assessment provision (§ 100.3) or special assessment provision (§ 100.5), which will result in a higher penalty. In addition, unabated nonserious violations will subject mine operators to more stringent enforcement sanctions, such as closure orders for failure to abate. This new provision will not alter compliance responsibilities of either MSHA or the mine operator. Accordingly, all violations will continue to be cited, all hazards must be abated and all penalties must be paid. MSHA does not believe that this new provision will either encourage operators to violate the Act, or allow hazards, once identified, to remain uncorrected. Abatement remains an integral part of the inspection process. Industry representatives who participated in this rulemaking acknowledged the critical role of abatement, and urged the Agency to continue its efforts to assure that all hazards are abated as quickly as possible.

Some commenters requested clear guidelines for defining the class of violations to which the single penalty will be applied. These commenters further requested that the definition of "significant and substantial" violations

as stated in a decision of the Federal Mine Safety and Health Review Commission, *Secretary of Labor v. Cement Division, National Gypsum Co.*, 3 FMSHRC 822,825; 2 MSHC 1201 (1981), should be incorporated into the final rule. Under the final rule, a \$20 single penalty may be assessed for those violations which "are not reasonably likely to result in a reasonably serious injury or illness." Although this definition is consistent with the Commission's decision on "significant and substantial" violations in the *National Gypsum* case, it is independently established in this rulemaking and represents the Agency's rule with respect to the single penalty provision. MSHA does not believe that further specific language governing the inspector's evaluation of hazardous conditions should be incorporated into the final rule.

Several commenters were concerned about the Agency's existing guidelines for determining "significant and substantial" violations. MSHA will carefully review its policy for uniform application and consistency with this rulemaking.

MSHA inspectors already make a determination as to which violations of the Act are of a serious nature. In making this determination, inspectors first evaluate whether an injury or illness is reasonably likely to occur if the violation is not corrected. Next, the inspector must evaluate whether the injury or illness, were it to occur, would be reasonably serious. In these areas, inspectors use their experience, background and training together with an evaluation of the actual circumstances surrounding the violation to arrive at an independent judgment. Where a violation is not reasonably likely to result in a reasonably serious injury or illness, a summary review and analysis of the condition or practice is conducted. However, when the gravity factor is low and good faith is established through abatement, MSHA does not believe that an individualized analysis of the negligence, size and history criteria is appropriate or necessary. As a result, inspector time would be saved, permitting MSHA to focus additional resources on more serious mine hazards.

Under the proposed single penalty provision, opportunity for a safety and health conference would be preserved, but the scope of the conference would be limited to issues related to the existence or type of violation. In addition, the statutory right to contest a proposed penalty to the Commission would continue to apply to all

assessments under these regulations. The final rule does not alter these concepts.

MSHA believes that the single penalty provision will help achieve improved health and safety for miners by eliminating the need to spend disproportionate amounts of time reviewing and processing violations whose impact on safety and health is minimal. The primary focus of both MSHA and the mining community must be on the prevention and correction of conditions which pose a serious risk to the safety and health of miners. Therefore, the final rule retains the \$20 single penalty concept.

MSHA will carefully review the experience gained in applying this provision to assure that no diminution to miner safety or health results.

Section 100.5 Determination of Penalty; Special Assessment. This section will be used for those violations which MSHA believes should not be processed through the regular assessment formula (§ 100.3) or single penalty provision (§ 100.4). Although MSHA will use the single penalty provision in § 100.4 and the formula system to process the great majority of citations and orders, the Agency believes that there will be some circumstances in which these provisions would not provide an appropriate assessment. For this reason, the final rule retains the special assessment provision.

The prior rule set forth certain categories or types of violations which, due to their nature or seriousness, might not be appropriate for regular formula assessment. In the proposed rule, these categories were clarified to specifically notify persons of those classes of violations which may be individually examined to determine whether a special assessment is necessary. MSHA also proposed to delete three categories of special assessments review contained in the prior rule: Discrimination violations under Section 105(c); the failure to abate a violation within the prescribed period; and violations by independent contractors. The Agency proposed this action because it believed that these categories of violations would be adequately assessed under other provisions of this rule.

Several commenters desired to see the special assessment provision eliminated or restricted to situations involving an extraordinarily high degree of negligence. Other commenters believed that the categories, as proposed, were reasonable. After reviewing the comments, MSHA believes that there are certain categories of violations for

which an individual review process is necessary. Where a special assessment is made, it should be noted that it is still based upon the facts and circumstances surrounding the particular violation. Narrative findings are issued in support of the consideration given to the six criteria.

In the final rule, MSHA has deleted the proposed special assessment category for a pattern of violations. If a mine were determined to have a pattern of violations, the Agency believes that an appropriate assessment could be made using one of the remaining special assessment categories. MSHA has also retained discrimination violations under Section 105(c) as a special assessment category because the single penalty and regular assessment provisions would not adequately evaluate these violations. The rule permits certain discrimination violations to be processed under the special assessment provision. The following categories have been adopted in the final rule:

- (1) Violations involving fatalities and serious injuries;
- (2) Violations involving an unwarrantable failure to comply with mandatory health and safety standards;
- (3) Operation of a mine in the face of a closure order;
- (4) Failure to permit an authorized representative of the Secretary to perform an inspection or investigation;
- (5) Violations for which individuals are personally liable under Section 110(c) of the Act;
- (6) Violations involving an imminent danger;
- (7) Discrimination violations under Section 105(c) of the Act; and
- (8) Violations involving an extraordinarily high degree of negligence or gravity or other unique aggravating circumstances.

In making determinations with respect to special assessments, the final rule differs from the prior rule in that neither the nature nor the seriousness of a particular violation will automatically result in a special assessment. When a violation falls within one of the enumerated categories, MSHA will conduct an individual review to determine whether a special assessment is proper. If this review reveals that the violation can be appropriately assessed under another provision of the rule, it will be processed under that provision.

Whenever MSHA elects to waive the use of the formula in § 100.3 on the basis that unique aggravating circumstances are involved, the parties will be fully informed as to the basis for this action.

Section 100.6 Procedures for Review of Citations and Orders. The

requirements and administrative procedures for review of citations and orders by MSHA were contained in § 100.5 of the prior rule. Through this process, MSHA evaluated all citations and orders. The review process also provided the parties an opportunity to submit additional information and to request a conference regarding a violation.

The final rule redesignates this Section as 100.6 and makes changes in the administrative procedures of this review process to reflect MSHA's reorganized management functions. A major purpose of this realignment of management responsibilities is to better focus the process for review of citations and orders on the safety and health issues involved. MSHA believes that it will improve safety and health to more directly involve those who issue the citations and orders in the process established for review of these actions. Therefore, mine operators and the miners or their representatives at the mine will be afforded an opportunity to discuss safety and health issues after the inspection. MSHA District Managers will now be fully responsible at all phases of the process for the review of all citations and orders. This transfer of functions will permit the mining community to address in a more effective manner all of the relevant safety and health factors related to a violation. In addition, MSHA intends to make the inspector's evaluation regarding factors bearing on each violation available to mine operators and the miners or their representatives at the mine. These evaluations will be made available at the time of the issuance of the citations and orders.

Some commenters questioned the effect of MSHA's reorganization on the rights and opportunities afforded the parties under the prior rule. The final rule deletes the administrative procedures for review of citations and orders used by the MSHA Office of Assessments which were contained in the prior regulation. This revision permits MSHA District Managers to develop and implement procedures for the review of citations and orders. Neither the final rule nor the Agency's transfer of functions for the review of citations and orders alters the principles of the prior regulation. The final rule retains the requirement for prompt MSHA review of all citations and orders. This initial level of review will be conducted during the inspection closeout conference or at a time reasonably convenient to the parties. The final rule also retains the right of any party to submit additional facts or

to request a safety and health conference within 10 days of notice by MSHA of the right to a conference. As existed under the prior rule, the mine operator and the miners or their representatives at the mine may request a conference. A conference request may also include a request to be notified of, and to participate in, a conference initiated by another party. The safety and health conference request is to be made with the MSHA District Office. Where a request is granted, conferences will be promptly conducted. Therefore, under the final rule there is no change in the substantive rights and opportunities of the parties.

Several commenters objected that the transfer of the citation and order review process to the MSHA District Offices, and the involvement of MSHA inspectors in the process, could result in less time available for conducting inspections. With the transfer of responsibility, MSHA inspectors will participate in the review of the citations and orders issued in the manner considered necessary by the District Manager for the resolution of issues. However, MSHA believes that involvement of inspectors in the review process will lead to better communication and improved cooperation between MSHA and the mining community. In addition, MSHA believes that this final rule together with the realignment of MSHA functions will result in greater efficiency and effectiveness, facilitating MSHA's compliance inspection activities. Under the prior rule, MSHA inspectors, upon request, provided additional information to assessment conference officers with respect to clarification of issues concerning a citation. The reorganization of the conference function should reduce the administrative and paperwork requirements associated with this function and result in a more timely and effective process.

Section 100.7 Notice of Proposed Penalty; Notice of Contest. This section sets out the circumstances under which a notice of proposed penalty will be served on the parties, the procedures for contesting a notice of proposed penalty, and when a proposed penalty becomes final.

The prior rule set forth the instances which resulted in the issuance of a proposed penalty. All are retained in the final rule, except the provision for the issuance of a proposed penalty upon the expiration of 33 days from the service of the results of the initial review. This has been deleted to be consistent with the revisions made to the final rule's

procedure for review of citations and orders (§ 100.6). In addition, the final rule makes changes in nomenclature.

Section 100.8 Service. This section differs from the prior rule in that a third category is added providing for service of proposed civil penalties upon operators who fail to file under 30 CFR Part 41 (Notification of Legal Identity). Operators within this category will receive service at their last known business address recorded with MSHA. Also, for the reasons outlined in this preamble discussion of §§ 100.6 and 100.7, two nonsubstantive wording changes were necessary to conform the rule to MSHA's reorganized management functions.

III. Drafting Information

The principal persons responsible for preparing this final rule are: Patricia W. Silvey, Office of Standards, Regulations and Variances, Mine Safety and Health Administration; and M. Peter Garcia and William B. Moran, Office of the Solicitor, Department of Labor.

IV. Executive Order 12291

This regulation is not a "major rule" under the terms of the Executive Order. The final rule streamlines the civil penalty process and reduces administrative requirements associated with processing violations.

V. Regulatory Flexibility Act

The final rule is exempt from the requirements of this Act because the proposal was published prior to January 1, 1981. However, MSHA has considered the economic impact of this rule on small businesses and believes that the rule will have a favorable impact on small businesses because it reduces administrative efforts and costs associated with processing violations.

VI. Paperwork Reduction Act

This regulation does not contain paperwork requirements for mine operators. However, this final rule is expected to reduce internal paperwork requirements for MSHA, through the reduction of administrative efforts where "single penalty" assessments are made.

List of Subjects in 30 CFR Part 100

Mine safety and health, Penalties.

Dated: April 29, 1982.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

This final rule revises Subchapter P, Part 100 of Chapter I, Title 30 of the Code of Federal Regulations as set forth below:

SUBCHAPTER P—CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

PART 100—CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES

Sec.

- 100.1 Scope and purpose.
 100.2 Applicability.
 100.3 Determination of penalty; regular assessment.
 100.4 Determination of penalty; single penalty assessment.
 100.5 Determination of penalty; special assessment.
 100.6 Procedures for review of citations and orders; procedures for assessment of civil penalties and conferences.
 100.7 Notice of proposed penalty; notice of contest.
 100.8 Service.

Authority: Secs. 105, 110, 508 of the Federal Mine Safety and Health Act of 1977 Pub. L. 95-173, as amended by Pub. L. 95-164, 91 Stat. 1303 and 1311, 83 Stat. 803 (30 U.S.C. 815, 820 and 957).

§ 100.1 Scope and purpose.

This part sets forth the criteria and procedures for the proposed assessment of civil penalties under sections 105 and 110 of the Federal Mine Safety and Health Act of 1977 (Act). The purpose of this part is to provide a fair and equitable procedure for the application of the statutory criteria in determining proposed penalties for violations, to maximize the incentives for mine operators to prevent and correct hazardous conditions, and to assure the prompt and efficient processing and collection of penalties.

§ 100.2 Applicability.

The criteria and procedures contained in this part are applicable to all evaluations and proposed assessments of civil penalties for violations of the Act, and the standards and regulations promulgated pursuant to the Act. The Mine Safety and Health Administration (MSHA), United States Department of Labor, shall review each citation and order and shall make proposed assessments of civil penalties.

§ 100.3 Determination of penalty amount; regular assessment.

(a) *General.* The amount of the civil penalty proposed shall be based upon the formula set forth in this section. The formula is based on the general criteria described in sections 105(b) and 110(i) of the Act. These criteria are:

- (1) The appropriateness of the penalty to the size of the business of the operator charged;
- (2) The operator's history of previous violations;

(3) Whether the operator was negligent;

(4) The gravity of the violation;

(5) The demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation; and

(6) The effect of the penalty on the operator's ability to continue in business.

The penalty amount in a regular case shall be determined by first assigning the appropriate number of penalty points to the violation by using the appropriate criteria and tables set forth in this section. The number of penalty points assigned for all criteria will then be totaled, and the point accumulation converted into a dollar amount by using the penalty conversion table in paragraph (g) of this section. Where appropriate, this penalty amount will be adjusted for demonstrated good faith in accordance with § 100.3(f).

(b) *The appropriateness of the penalty to the size of the operator's business.* The appropriateness of the penalty to the size of the production operator's business is calculated by using both the size of the mine cited and the size of the controlling entity of which the mine is a part. This criterion may account for a maximum of 15 penalty points for production operators. The size of an independent contractor will be measured by the amount of hours worked in all mining activities and may account for a maximum of 10 penalty points. The size will be evaluated by selecting the appropriate number of penalty points from Tables I to V. As used in the Tables below, the terms "annual tonnage" and "annual hours worked" mean tonnage produced and hours worked in the previous calendar year, or, in the case of a mine opened or owned less than one full calendar year, the tonnage and hours worked prorated to an annual basis.

TABLE I.—SIZE OF COAL MINE

| Annual tonnage of mine | Penalty points |
|----------------------------------|----------------|
| 0 to 15,000..... | 0 |
| Over 15,000 to 30,000..... | 1 |
| Over 30,000 to 50,000..... | 2 |
| Over 50,000 to 100,000..... | 3 |
| Over 100,000 to 200,000..... | 4 |
| Over 200,000 to 300,000..... | 5 |
| Over 300,000 to 500,000..... | 6 |
| Over 500,000 to 800,000..... | 7 |
| Over 800,000 to 1.1 million..... | 8 |
| Over 1.1 to 2 million..... | 9 |
| Over 2 million..... | 10 |

TABLE II.—SIZE OF CONTROLLING ENTITY—COAL MINE

| Annual tonnage | Penalty points |
|------------------------------------|----------------|
| 0 to 100,000..... | 0 |
| Over 100,000 to 700,000..... | 1 |
| Over 700,000 to 1.5 million..... | 2 |
| Over 1.5 million to 5 million..... | 3 |
| Over 5 million to 10 million..... | 4 |
| Over 10 million..... | 5 |

TABLE III.—SIZE OF METAL/NONMETAL MINE

| Annual hours worked at mine | Penalty points |
|--------------------------------|----------------|
| 0 to 10,000..... | 0 |
| Over 10,000 to 20,000..... | 1 |
| Over 20,000 to 30,000..... | 2 |
| Over 30,000 to 60,000..... | 3 |
| Over 60,000 to 100,000..... | 4 |
| Over 100,000 to 200,000..... | 5 |
| Over 200,000 to 300,000..... | 6 |
| Over 300,000 to 500,000..... | 7 |
| Over 500,000 to 700,000..... | 8 |
| Over 700,000 to 1 million..... | 9 |
| Over 1 million..... | 10 |

TABLE IV.—SIZE OF CONTROLLING ENTITY—METAL/NONMETAL MINE

| Annual hours worked | Penalty points |
|----------------------------------|----------------|
| 0 to 60,000..... | 0 |
| Over 60,000 to 400,000..... | 1 |
| Over 400,000 to 900,000..... | 2 |
| Over 900,000 to 3 million..... | 3 |
| Over 3 million to 6 million..... | 4 |
| Over 6 million..... | 5 |

TABLE V.—SIZE OF INDEPENDENT CONTRACTOR

| Annual hours worked at all mines | Penalty points |
|----------------------------------|----------------|
| 0 to 10,000..... | 0 |
| Over 10,000 to 20,000..... | 1 |
| Over 20,000 to 30,000..... | 2 |
| Over 30,000 to 60,000..... | 3 |
| Over 60,000 to 100,000..... | 4 |
| Over 100,000 to 200,000..... | 5 |
| Over 200,000 to 300,000..... | 6 |
| Over 300,000 to 500,000..... | 7 |
| Over 500,000 to 700,000..... | 8 |
| Over 700,000 to 1 million..... | 9 |
| Over 1 million..... | 10 |

(c) *History of previous violations.* History is based on the number of assessed violations in a preceding 24-month period. Only violations that have been paid or finally adjudicated will be included in determining history. However, violations which receive a single penalty assessment under § 100.4 and are paid in a timely manner will not be included in the computation. The history of previous violations may account for a maximum of 20 penalty points. For mine operators, the penalty points will be calculated on the basis of the average number of assessed violations per inspection day (Table VI). For independent contractors, penalty points will be calculated on the basis of the average number of violations

assessed per year at all mines (Table VII).

TABLE VI.—MINE OPERATORS

| Violations per inspection day | Penalty points |
|-------------------------------|----------------|
| 0 to 0.3 | 0 |
| Over 0.3 to 0.5 | 2 |
| Over 0.5 to 0.7 | 4 |
| Over 0.7 to 0.9 | 6 |
| Over 0.9 to 1.1 | 8 |
| Over 1.1 to 1.3 | 10 |
| Over 1.3 to 1.5 | 12 |
| Over 1.5 to 1.7 | 14 |
| Over 1.7 to 1.9 | 16 |
| Over 1.9 to 2.1 | 18 |
| Over 2.1 | 20 |

TABLE VII.—INDEPENDENT CONTRACTORS

| Number of violations | Penalty points |
|----------------------|----------------|
| 1 to 5 | 0 |
| 6 to 10 | 2 |
| 11 to 15 | 4 |
| 16 to 20 | 6 |
| 21 to 25 | 8 |
| 26 to 30 | 10 |
| 31 to 35 | 12 |
| 36 to 40 | 14 |
| 41 to 45 | 16 |
| 46 to 50 | 18 |
| Over 50 | 20 |

(d) *Negligence.* Negligence is committed or omitted conduct which falls below a standard of care established under the Act to protect persons against the risks of harm. The standard of care established under the Act is that the operator of a mine owes a high degree of care to the miners. A mine operator is required to be on the alert for conditions and hazards in the mine which affect the safety or health of the employees and to take the steps necessary to correct or prevent such conditions or practices. For purposes of assessing a penalty under this Part, failure to do so is negligence on the part of the operator. The negligence criterion gives appropriate consideration to the factors relating to an operator's failure to exercise a high degree of care to protect miners from safety or health hazards. When applying this criterion, MSHA considers actions taken by the operator to prevent or correct conditions or practices which caused or allowed the violation to exist. In determining the operator's diligence in protecting miners in any given hazard situation, due recognition is given to mitigating circumstances which explain the operator's conduct in minimizing or eliminating a hazardous condition. Mitigating circumstances may include, but are not limited to, actions which an operator has taken to prevent, correct, or limit exposure to mine hazards. This criterion may contribute a maximum of 25 penalty points, based on conduct evaluated according to Table VIII.

TABLE VIII.—NEGLIGENCE

| Categories | Penalty points |
|---|----------------|
| No negligence (The operator exercised diligence and could not have known of the violative condition or practice.) | 0 |
| Low negligence (The operator knew or should have known of the violative condition or practice, but there are considerable mitigating circumstances.) | 10 |
| Moderate negligence (The operator knew or should have known of the violative condition or practice, but there are mitigating circumstances.) | 15 |
| High negligence (The operator knew or should have known of the violative condition or practice, and there are no mitigating circumstances.) | 20 |
| Reckless disregard (The operator displayed conduct which exhibits the absence of the slightest degree of care.) | 25 |

(e) *Gravity.* Gravity is an evaluation of the seriousness of the violation as measured by the likelihood of the occurrence of the event against which a standard is directed, the severity of the illness or injury if the event occurred or were to occur, and the number of persons potentially affected if the event occurred or were to occur. This criterion may contribute a maximum of 30 penalty points, with up to 10 points derived from each of the following tables (Tables IX to XI):

TABLE IX.—LIKELIHOOD

| Likelihood of occurrence | Penalty points |
|--------------------------|----------------|
| No likelihood | 0 |
| Unlikely | 2 |
| Reasonably likely | 5 |
| Highly likely | 7 |
| Occurred | 10 |

TABLE X.—SEVERITY

| Severity of injury or illness if the event occurred or were to occur | Penalty points |
|---|----------------|
| No lost work days (All occupational injuries and illnesses as defined in 30 CFR Part 50 except those listed below.) | 0 |
| Lost work days or restricted duty (Any injury or illness which would cause the injured or ill person to lose one full day of work or more after the day of the injury or illness, or which would cause one full day or more of restricted duty.) | 3 |
| Permanently disabling (Any injury or illness which would be likely to result in the total or partial loss of the use of any member or function of the body.) | 7 |
| Fatal (Any work-related injury or illness resulting in death, or which has a reasonable potential to cause death.) | 10 |

TABLE XI.—PERSONS POTENTIALLY AFFECTED

| Number of persons potentially affected if the event occurred or were to occur | Penalty points |
|---|----------------|
| 0 | 0 |
| 1 | 1 |
| 2 | 2 |
| 3 | 4 |

TABLE XI.—PERSONS POTENTIALLY AFFECTED—Continued

| Number of persons potentially affected if the event occurred or were to occur | Penalty points |
|---|----------------|
| 4 to 5 | 6 |
| 6 to 9 | 8 |
| More than 9 | 10 |

(f) *Demonstrated good faith of the operator in abating the violation.* This criterion provides a 30% reduction in the penalty amount of a regular assessment where the operator abates the violation in the time set by the inspector. Where the operator does not abate within the time set by the inspector, 10 penalty points will be assigned.

(g) *Penalty conversion table.* The penalty conversion table shall be used to convert the accumulation of penalty points to the appropriate proposed monetary assessment.

PENALTY CONVERSION TABLE

| Points | Penalty |
|-------------|---------|
| 15 or fewer | \$30 |
| 16 | 32 |
| 17 | 34 |
| 18 | 36 |
| 19 | 38 |
| 20 | 40 |
| 21 | 44 |
| 22 | 48 |
| 23 | 52 |
| 24 | 56 |
| 25 | 60 |
| 26 | 66 |
| 27 | 72 |
| 28 | 78 |
| 29 | 84 |
| 30 | 90 |
| 31 | 98 |
| 32 | 106 |
| 33 | 114 |
| 34 | 122 |
| 35 | 130 |
| 36 | 140 |
| 37 | 150 |
| 38 | 160 |
| 39 | 170 |
| 40 | 180 |
| 41 | 195 |
| 42 | 210 |
| 43 | 225 |
| 44 | 240 |
| 45 | 255 |
| 46 | 275 |
| 47 | 295 |
| 48 | 305 |
| 49 | 325 |
| 50 | 345 |
| 51 | 370 |
| 52 | 395 |
| 53 | 420 |
| 54 | 445 |
| 55 | 470 |
| 56 | 500 |
| 57 | 530 |
| 58 | 560 |
| 59 | 590 |
| 60 | 620 |
| 61 | 655 |
| 62 | 690 |
| 63 | 725 |
| 64 | 760 |
| 65 | 800 |
| 66 | 840 |
| 67 | 880 |
| 68 | 920 |
| 69 | 960 |
| 70 | 1,000 |
| 71 | 1,050 |
| 72 | 1,100 |
| 73 | 1,150 |
| 74 | 1,200 |
| 75 | 1,250 |

PENALTY CONVERSION TABLE—Continued

| Points | Penalty |
|--------|---------|
| 76 | 1,300 |
| 77 | 1,400 |
| 78 | 1,500 |
| 79 | 1,600 |
| 80 | 1,700 |
| 81 | 1,900 |
| 82 | 2,100 |
| 83 | 2,300 |
| 84 | 2,500 |
| 85 | 2,700 |
| 86 | 3,000 |
| 87 | 3,400 |
| 88 | 3,800 |
| 89 | 4,200 |
| 90 | 4,600 |
| 91 | 5,000 |
| 92 | 5,500 |
| 93 | 6,000 |
| 94 | 6,500 |
| 95 | 7,000 |
| 96 | 7,500 |
| 97 | 8,000 |
| 98 | 8,500 |
| 99 | 9,000 |
| 100 | 10,000 |

(h) *The effect on the operator's ability to continue in business.* It is initially presumed that the operator's ability to continue in business will not be affected by the assessment of a civil penalty. The operator may submit information to the District Manager concerning the business financial status to show that payment of the penalty will affect the operator's ability to continue in business. If the information provided by the operator indicates that the penalty will adversely affect the ability to continue in business the penalty may be adjusted.

§ 100.4 Determination of penalty; single penalty assessment.

An assessment of \$20 may be imposed as the civil penalty where the violation is not reasonably likely to result in a reasonably serious injury or illness, and is abated within the time set by the inspector. If the violation is not abated within the time set by the inspector, the violation will not be eligible for the \$20 single penalty and will be processed through either the regular assessment provision (§ 100.3) or special assessment provision (§ 100.5).

§ 100.5 Determination of penalty; special assessment.

MSHA may elect to waive the regular assessment formula (§ 100.3) or the single assessment provision (§ 100.4) if the Agency determines that conditions surrounding the violation warrant a special assessment. Although an effective penalty can generally be derived by using the regular assessment

formula and the single assessment provision, some types of violations may be of such a nature or seriousness that it is not possible to determine an appropriate penalty under these provisions. Accordingly, the following categories will be individually reviewed to determine whether a special assessment is appropriate:

(a) Violations involving fatalities and serious injuries;

(b) Unwarrantable failure to comply with mandatory health and safety standards;

(c) Operation of a mine in the face of a closure order;

(d) Failure to permit an authorized representative of the Secretary to perform an inspection or investigation;

(e) Violations for which individuals are personally liable under Section 110(c) of the Act;

(f) Violations involving an imminent danger;

(g) Discrimination violations under Section 105(c) of the Act; and

(h) Violations involving an extraordinarily high degree of negligence or gravity or other unique aggravating circumstances.

When MSHA determines that a special assessment is appropriate, such special assessment shall take into account the criteria enumerated in § 100.3(a). All findings shall be in narrative form.

§ 100.6 Procedures for review of citations and orders; procedures for assessment of civil penalties and conferences.

(a) All parties shall be afforded the opportunity to review with MSHA each citation and order issued during an inspection.

(b) Upon notice by MSHA, all parties shall have 10 days within which to submit additional information or request a safety and health conference with the District Manager or designee. A conference request may include a request to be notified of, and to participate in, a conference initiated by another party.

(c) It is within the sole discretion of MSHA to grant a request for a conference and to determine the nature of the conference.

(d) When a conference is conducted, the parties may submit any additional relevant information relating to the violation, either prior to or at the conference. To expedite the conference, the official assigned to the case may

contact the parties to discuss the issues involved prior to the conference.

(e) MSHA will consider all relevant information submitted in a timely manner by the parties with respect to the violation. When the facts warrant a finding that no violation occurred, the citation or order will be vacated.

(f) All citations which have been abated and all orders will be promptly referred by the District Manager to the Office of Assessments.

(g) The Office of Assessments will use the citations, orders, and inspector's evaluation as the basis for determining the appropriate amount of a proposed penalty.

§ 100.7 Notice of proposed penalty; notice of contest.

(a) A notice of proposed penalty will be issued and served by certified mail upon the party to be charged and by regular mail to the representative of miners at the mine after the time permitted to request a conference under § 100.6 expires, or upon the completion of a conference, or upon review by MSHA of additional information submitted in a timely manner.

(b) Upon receipt of the notice of proposed penalty, the party charged shall have 30 days to: (1) Pay the proposed assessment (acceptance by MSHA of payment tendered by the party charged will close the case); or, (2) notify MSHA in writing of the intention to contest the proposed penalty. The Office of Assessments shall provide a return mailing card with each notice of proposed penalty to be used by the party charged to request a hearing before the Federal Mine Safety and Health Review Commission under Section 105 of the Act. Such a request must be sent to the address listed on such notification. When MSHA receives the notice of contest, it shall immediately advise the Commission of such notice, and shall promptly forward the case to the Office of the Solicitor. No proposed penalty which has been contested before the Commission, shall be compromised, mitigated or settled except with the approval of the Commission.

(c) The failure to pay or to contest the proposed penalty within 30 days of receipt of notice thereof shall result in the proposed penalty being deemed a final order of the Commission and not subject to review by any court or agency.

§ 100.8 Service.

(a) All operators are required by 30 CFR Part 41 (Notification of Legal Identity) to file with MSHA the name and address of record of the operator. All representatives of miners are required by 30 CFR Part 40 (Representative of Miners) to file with MSHA the mailing address of the person or organization acting in a representative capacity. Proposed penalty assessments delivered to those addresses shall constitute service.

(b) If any of the parties choose to have proposed penalty assessments mailed to a different address, the Office of Assessments must be notified in writing of the new address. Delivery to this address shall also constitute service.

(c) Service for operators who fail to file under 30 CFR Part 41 will be upon the last known business address recorded with MSHA.

[FR Doc. 82-12064 Filed 4-29-82; 3:24 pm]

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Federal Register

Friday
May 21, 1982

Part III

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
DivisionMinimum 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.

| | | |
|---------------------------------|-------|----------------|
| Iowa: | | |
| IA81-4088 | ..... | Nov. 13, 1981. |
| IA81-4089 | ..... | Nov. 13, 1981. |
| IA81-4090 | ..... | Dec. 11, 1981. |
| IA81-4091 | ..... | Nov. 13, 1981. |
| IA81-4092 | ..... | Nov. 27, 1981. |
| IA81-4093 | ..... | Nov. 27, 1981. |
| IA81-4094 | ..... | Nov. 27, 1981. |
| IA81-4096 | ..... | Nov. 27, 1981. |
| IA81-4097 | ..... | Nov. 27, 1981. |
| IA81-4098 | ..... | Nov. 27, 1981. |
| IA81-4101 | ..... | Dec. 11, 1981. |
| District of Columbia: DC81-3040 | ..... | June 5, 1981. |
| Maryland: DC81-3040 | ..... | June 5, 1981. |
| Virginia: DC81-3040 | ..... | June 5, 1981. |
| Kansas: KS82-4013 | ..... | Apr. 16, 1982. |
| Louisiana: LA82-4020 | ..... | May 7, 1982. |
| LA82-4021 | ..... | May 7, 1982. |
| LA82-4022 | ..... | May 7, 1982. |
| Oklahoma: OK81-4056 | ..... | July 17, 1981. |
| Texas: | | |
| TX80-4088 | ..... | Nov. 7, 1980. |
| TX81-4008 | ..... | Jan. 6, 1981. |
| TX81-4044 | ..... | June 26, 1981. |
| TX81-4052 | ..... | July 10, 1981. |
| TX81-4064 | ..... | Aug. 7, 1981. |
| TX81-4074 | ..... | Oct. 2, 1981. |
| TX81-4075 | ..... | Oct. 2, 1981. |
| TX81-4078 | ..... | Oct. 2, 1981. |
| TX81-4079 | ..... | Oct. 2, 1981. |
| TX82-4001 | ..... | Jan. 29, 1982. |
| TX82-4005 | ..... | Jan. 29, 1982. |
| TX82-4019 | ..... | May 7, 1982. |
| Pennsylvania: | | |
| PA82-3008 | ..... | Feb. 26, 1982. |
| PA81-3090 | ..... | Dec. 18, 1981. |
| PA82-3007 | ..... | Feb. 26, 1982. |

Supersedeas Decisions to General Wage
Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

| | | |
|---------------------------------|-------|----------------|
| Illinois: IL81-2028 (IL82-2032) | ..... | June 19, 1981. |
| Ohio: OH81-2067 (OH82-2037) | ..... | Dec. 18, 1981. |

Please note that we are changing the format for Federal Register wage decisions to coincide with the provisions

of All Agency Memorandum No. 132 dated January 29, 1980 which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure will be phased in gradually.

Signed at Washington, D.C. this 14th day of May 1982.

Dorothy P. Come,
Assistant Administrator Wage and Hour Division.

BILLING CODE 4510-30-M

Modification Page 1

| DECISION NO. / MOD. # / DATE / LOCATION | CHANGE | Basic Hourly Rates | Fringe Benefits |
|--|---|---|--|
| DECISION NO. IA81-4088 - MOD. #5 (46 FR 56121 - 11/13/81) Black Hawk County, Iowa | Bldg., water treatment & sewage disposal plants; Sprinkler fitters | \$16.47 | 2.83 |
| DECISION NO. IA81-4089 - MOD. #6 (46 FR 56122 - 11/13/81) Clinton County, Iowa | Carpenters; Millwrights; Piledrivermen; Sprinkler fitters | \$14.59 16.29 15.09 16.47 | 1.90 2.00 1.90 2.83 |
| DECISION NO. IA81-4090 - MOD. #5 (46 FR 60752 - 12/11/81) Des Moines County, Iowa | Bldg., water treatment & sewage disposal plants; Sprinkler fitters | 16.47 | 2.83 |
| DECISION NO. IA81-4091 - MOD. #5 (46 FR 56123 - 11/13/81) Dubuque County, Iowa | Bldg., water treatment & sewage disposal plants; Sprinkler fitters | 16.47 | 2.83 |
| DECISION NO. IA81-4092 - MOD. #6 (46 FR 58025 - 11/27/81) Johnson County, Iowa | Bldg., water treatment & sewage disposal plants; Sprinkler fitters | 16.47 | 2.83 |
| DECISION NO. IA81-4093 - MOD. #6 (46 FR 58018 - 11/27/81) Linn County, Iowa | Bldg., water treatment & sewage disposal plant; Carpenters; Millwrights; Piledrivermen; Sprinkler fitters | \$14.59 16.29 15.09 16.47 | 1.90 2.00 1.90 2.83 |
| DECISION NO. IA81-4094 - MOD. #6 (46 FR 58019 - 11/27/81) Polk County, Iowa | Bldg., water treatment & sewage disposal plant; Sprinkler fitters | 16.47 | 2.83 |
| DECISION NO. IA81-4096 - MOD. #5 (46 FR 58023 - 11/27/81) Woodbury County, Iowa | Laborers; Group 1; Group 2; Sprinkler fitters | 10.62 10.77 16.47 | 2.11 2.11 2.83 |
| DECISION NO. IA81-4097 - MOD. #5 (46 FR 58016 - 11/27/81) Cerro Gordo County, Iowa | Bldg., water treatment & sewage disposal plant; Sprinkler fitters | 16.47 | 2.83 |
| DECISION NO. IA81-4098 - MOD. #3 (46 FR 58021 - 11/27/81) Scott County, Iowa | Cement masons; Glaziers; Painters; Brush, roller; Spray structural steel; Plumbers & steamfitters; Roofers; Sprinkler fitters | 14.37 15.71 13.77 14.27 16.65 15.30 16.47 | 1.80 1.77 2.44 2.44 2.32 2.31 2.83 |

Modification Page 2

| DECISION NO. / MOD. # / DATE / LOCATION | CHANGE | Basic Hourly Rates | Fringe Benefits |
|---|---|--------------------|-----------------|
| DECISION NO. IA81-4101 - MOD. #3 (46 FR 60754 - 12/11/81) Pottawattamie Co., Iowa | Bricklayers & stonemason; Sprinkler fitters | \$13.99 16.47 | 1.95 2.83 |
| DECISION NO. DC81-3040 - MOD. #8 (46 FR 30290 - June 5, 1981) | District of Columbia; Maryland - Montgomery and Prince Georges; and D.C. Training School; Virginia Independent City of Alexandria; Arlington and Fairfax Counties | | |
| DECISION NO. LA82-4021 - MOD. #1 (47 FR 19877 - 5/7/82) Bossier & Caddo Parishes, Louisiana | Plumbers & pipefitters; Sprinkler fitters | 13.94 14.57 | 3.04 2.83 |
| DECISION NO. LA82-4022 - MOD. #1 (47 FR 19877 - 5/7/82) Calcasieu Par., Louisiana | Plumbers & pipefitters; Sprinkler fitters | 13.94 14.57 | 3.04 2.83 |
| DECISION NO. OK81-4056 - MOD. #10 (46 FR 37209 - July 17, 1981) | Tulsa, Delaware, Creek, Craig, Ottawa, Mayes and Roger Counties, Oklahoma | | |
| DECISION NO. KS82-4013-MOD. #3 (47 FR 16519-April 16, 1982) LEAVENWORTH COUNTY, KANSAS | Roofers | \$14.13 | 2.01 |

TO READ: BUILDING PROJECTS (EXCLUDING single family homes and apartments up to and including 4 stories) and EXCLUSION OF Water and Sewer Treatment Plants in Tulsa County ONLY.

Modification Page 3

| DECISION NO. / MOD. # | Basic Hourly Rates | Fringe Benefits |
|--|---|---------------------------------|
| DECISION NO. TX80-4088 - MOD. #7 (45 FR 74364 - 11/7/80) Harrison County, Texas CHANGE: Sprinkler fitters | \$16.17 | 2.83 |
| DECISION NO. TX81-4008 - MOD. #5 (46 FR 1550 - 1/6/81) Smith County, Texas CHANGE: Sprinkler fitters | 16.17 | 2.83 |
| DECISION NO. TX81-4044 - MOD. #6 (46 FR 33194 - 6/26/81) Bowie County, Texas CHANGE: Sprinkler fitters | 16.17 | 2.83 |
| DECISION NO. TX81-4052 - MOD. #4 (46 FR 35903 - 7/10/81) Cameron, Hidalgo, Starr & Willacy Cos., Texas CHANGE: Sprinkler fitters | 16.17 | 2.83 |
| DECISION NO. TX81-4064 - MOD. #3 (46 FR 40487 - 8/7/81) El Paso County, Texas CHANGE: Bricklayers Sprinkler fitters | 9.75 16.17 | 1.27 2.83 |
| DECISION NO. TX81-4074 - MOD. #9 (46 FR 48861 - 10/2/81) Travis County, Texas CHANGE: Bricklayers & stonemason Sprinkler fitters | 13.54 16.17 | 2.21 2.83 |
| DECISION NO. TX81-4075 - MOD. #10 (46 FR 48863 - 10/2/81) Galveston & Harris Cos., Texas CHANGE: Roofers: Composition Slate & tile Kettleman Sprinkler fitters | \$13.86 14.61 12.90 16.17 | 1.58 1.58 1.58 2.83 |
| DECISION NO. TX81-4078 - MOD. #8 (46 FR 48865 - 10/2/81) Bexar County, Texas CHANGE: Sprinkler fitters | 16.17 | 2.83 |
| DECISION NO. TX81-4079 - MOD. #5 (46 FR 48867 - 10/2/81) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas CHANGE: Building Construction: Plumbers & pipefitters: Zone 1 Zone 2 Zone 3 Incidental Paving & Utilities: Plumbers (Bell & Coryell): Zone 1 Zone 2 | 12.51 13.01 14.01 13.01 14.01 | .99 .99 .99 .99 .99 |
| DECISION NO. TX82-4001 - MOD. #2 (47 FR 4463 - 1/29/82) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas CHANGE: Bricklayers & stonemason Marble masons (exterior) Sprinkler fitters | 13.95 13.95 16.17 | .80 .80 2.83 |

Modification Page 4

| DECISION NO. / MOD. # | Basic Hourly Rates | Fringe Benefits |
|---|---|--|
| DECISION NO. TX82-4005 - MOD. #5 (47 FR 4465 - 1/29/82) Jefferson & Orange Cos., Texas CHANGE: Roofers: Composition Slate & tile Kettleman Sprinkler fitters | \$13.86 14.61 12.90 16.17 | 1.58 1.58 1.58 2.83 |
| DECISION NO. TX82-4019 - MOD. #1 (47 FR 19935 - 5/7/82) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Panto Pinto, Rockwall, Tarrant & Wise Cos., Texas CHANGE: Painters: Zone 1 - Group 1 Zone 2 - Group 2 Zone 3 - Group 3 Zone 4 - Group 4 Sprinkler fitters | 14.31 14.56 14.435 14.685 16.17 | 1.62 1.62 1.62 1.62 2.83 |
| DECISION NO. PA82-3003 - MOD. NO. 3 (47 FR 8487 - February 26, 1982) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania CHANGE: TRUCK DRIVERS: Heavy and Highway Truck Drivers: Including Site Preparation, Paving and Utilities on Building Construction Class 2 Class 3 | 11.85 12.51 13.51 14.85 14.56 13.69 12.92 12.45 11.54 15.10 15.35 15.59 16.92 11.69 14.62 | 1.80 1.80 1.80 25.67a 25.67a 25.67a 25.67a 25.67a 25.67a 25.67a 25.67a 25.67a 2.83 1.95 1.85 |
| DECISION NO. PA81-3090 MOD. NO. 2 (46 FR 61813 - December 18, 1981) Lycoming County, Pa. CHANGE: Cement Masons Bricklayers & Stonemasons LABORERS: General Laborers Operator of Jackhammer, paving and other pneumatic electrical and mechanical tools, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pile and the making of joints for same, wason drill operator, cofferdam (below 10'), tunnel free air, handling and using cutting or burning torches in the wrecking of buildings, blasters, plaster tenders, mason tenders, scaffold builders and removal of power buggies Painters Brush Tapers Hazardous POWER EQUIPMENT OPERATORS: Group 1 Group 2 Group 3 Group 4 Group 5 Group 6 Group 7 Group 7-A Group 7-B Sprinkler Fitters Soft Floor Layers Sheet Metal Workers | \$11.50 12.25 8.75 | 2.265 1.40 |

DECISION NO. PAS2-3007
MOD. NO. 2, CONT'D

| | Basic Hourly Rates | Fringe Benefits |
|--|--------------------|-----------------|
| Terrazzo Workers | \$12.86 | 3.12 |
| Tile Setters: | 10.37 | 3.75 |
| All Other Work | 11.50 | 3.89 |
| TRUCK DRIVERS: | 10.36 | 3.75 |
| BUILDING CONSTRUCTION | | |
| Class I | 11.35 | 2.5425 |
| Class II | 11.45 | 2.5425 |
| Class III | 11.65 | 2.5425 |
| HEAVY & HIGHWAY INCLUDING SITE PREPARATION, PAVING & UTILITIES ON BUILDING CONSTRUCTION | | |
| Class 1 | 11.20 | 2.5425 |
| Class 2 | 11.30 | 2.5425 |
| Class 3 | 11.50 | 2.5425 |
| OMT: | | |
| Roofers: | | |
| All Other Work: | | |
| Zone 1 | 7.75 | 2.38+e |
| Commercial | | |
| Roofers Assistant | | |
| ADD: | | |
| Roofers: | | |
| All Other Work | | |
| Zone 1 | | |
| Commercial (To read Mechanic II (Handle and transport all materials tools, and equipment; clean-up debris) | | |
| CHANGE: | | |
| LABORERS: | 7.75 | 2.38+e |
| *All Other Work | | |
| Class 6 | 12.24 | 2.00 |

| | Basic Hourly Rates | Fringe Benefits |
|--|--------------------|-----------------|
| LINE CONSTRUCTION: | | |
| ZONE 1 | | |
| Linemens | \$17.60 | .60+4% |
| Groundmen | 10.56 | .60+4% |
| Winch truck operator | 12.32 | .60+4% |
| Marble Setters | 13.20 | 3.12 |
| Marble Finishers | 10.59 | 3.75 |
| Millwrights | 14.02 | 4.41 |
| Painters: | | |
| All Other Work: | | |
| Zone 1 | 14.20 | 2.38 |
| Brush | 14.65 | 2.38 |
| Spray, steel & swing | 14.20 | 2.38 |
| Roller | | |
| Zone 2 | 14.08 | 2.49 |
| Commercial, brush | 14.58 | 2.49 |
| Commercial, spray | | |
| Zone 4 | 14.34 | 3.10 |
| Brush | 15.09 | 3.10 |
| Steel | | |
| Plumbers: | | |
| All Other Work: | | |
| Zone 1 | 18.75 | 2.64 |
| Roofers: | | |
| Residential structure of not more than 4 stories | | |
| re-roofing | 12.10 | 1.90 |
| Zone 1 | | |
| Sheet metal workers | 18.28 | 2.94 |
| Zone 1(Commercial) | | |
| Soft Floor Layers: | | |
| All Other Work | 12.63 | 3.56 |
| Sprinkler Fitters | | |
| Zone 1 | 16.92 | 2.83 |
| Steam Fitters | | |
| Zone 1 | 17.81 | 3.56 |
| Stone Masons | | |
| Zone 1 | 13.20 | 2.48 |
| POWER EQUIPMENT OPERATORS: | | |
| Group 1 | 15.16 | 25.6% |
| Group 2 | 14.90 | 25.6% |
| Group 3 | 14.03 | 25.6% |
| Group 4 | 13.82 | 25.6% |
| Group 5 | 13.51 | 25.6% |
| Group 6 | 13.34 | 25.6% |
| Group 7 | 12.83 | 25.6% |
| Group 8 | 12.09 | 25.6% |

DECISION NO. PAS2-3007 -
MOD. NO. 2
(47 FR 8529 - February 26,
1982)
Bucks, Chester, Delaware,
Montgomery & Philadelphia
Counties, Pennsylvania

CHANGE:

Bricklayers:
New Residential:
Under 4 stories
Carpenters:
Rehabilitation work to in-
clude demolition, repair and
alteration, on any existing
structure of not more than
(4) stories which is intended
for predominantly residential
use

Residential Under 4 stories
Bucks, Delaware and
Montgomery Counties
All other work
Drywall Finishers:
All other work
Electricians:
Zone 1

Commercial
Residential up to and
including 4 stories
Zone 9
Commercial
Ironworkers:
All Other Work
Zone 3
Structural & Ornamental
Reinforcing
LABORERS:
*All Other Work:
Class 1
Class 2
Class 3
Class 4
Class 5
Lathers
Zone 1

STATE: ILLINOIS
 DECISION NUMBER: IL82-2032
 SUPERSEDES DECISION NO. IL81-2028 dated June 19, 1981 in 46 FR 32183
 DESCRIPTION OF WORK: Heavy & Highway Construction Projects

*Boone, DeKalb, DuPage, Kane, Kendall, Lake, McHenry & Will

| Basic Hourly Rates | Fringe Benefits |
|--------------------|-----------------|
| 15.58 | 2.52 |
| 15.50 | 2.61 |
| 14.00 | 2.35 |
| 15.88 | 2.35 |
| 11.78 | 1.55 |
| 15.75 | 2.56 |
| 15.40 | 2.92 |
| 16.45 | 1.86 |
| 15.00 | 3.30 |
| 15.55 | 3.11 |
| 15.63 | 2.10 |
| 17.95 | 3.50 |
| 17.65 | 4.06 |
| 18.10 | 3.42 |
| 16.75 | 3.85 |
| 17.68 | 2.72 |
| 15.85 | 2.775 |
| 18.40 | 1.705 |
| 14.77 | 4.955 |
| 16.80 | 3.71 |

| Basic Hourly Rates | Fringe Benefits |
|--------------------|-----------------|
| 16.30 | 1.02+a |
| 13.84 | .93+a |
| 11.03 | .95+a |
| 10.67 | .82+a |
| 17.05 | 2.86 |
| 12.10 | 2.03 |
| 13.95 | 1.92 |
| 14.20 | 1.92 |
| 14.50 | 1.92 |
| 14.95 | 1.92 |
| 13.55 | 1.91 |
| 14.00 | 1.485 |
| 14.05 | 1.85 |
| 14.05 | 1.85 |
| 15.05 | 1.85 |
| 14.55 | 1.85 |
| 12.00 | 1.55 |
| 12.15 | 1.55 |
| 12.35 | 1.55 |
| 12.55 | 1.55 |
| 12.25 | 62.00b |
| 12.40 | 62.00b |
| 12.60 | 62.00b |
| 12.80 | 62.00b |

| Basic Hourly Rates | Fringe Benefits |
|--------------------|-----------------|
| 8.18 | c&d |
| 8.66 | c&d |
| 8.24 | c&d |
| 12.25 | 1.92 |
| 12.30 | 1.92 |
| 12.35 | 1.92 |
| 12.40 | 1.92 |
| 12.50 | 1.92 |
| 12.60 | 1.92 |
| 12.75 | 1.92 |
| 12.40 | 1.92 |
| 12.675 | 1.92 |
| 12.75 | 1.92 |
| 12.30 | 2.00 |
| 12.50 | 2.00 |
| 12.60 | 2.00 |
| 15.45 | 2.70 |
| 14.90 | 2.70 |
| 13.90 | 2.70 |
| 12.65 | 2.70 |
| 11.55 | 2.70 |

LABORERS: Boone, Kane, Kendall, & McHenry Cos.:
 Class 1: Common Laborers; Asphalt Plant Laborers; Stripping Laborers; Concrete Saw; Self-Propelled Saw; & Laser Beam
 Class 2: Air Tampers & Vibrators
 Class 3: Mortar Concrete Mixers
 Class 4: Stringline & Form Setters; Torchmen; Sheeting & Cribbing Men; Black Top Packers; Lutemen; & Machine Screwmens
 Class 5: Chain Saw Men; Jackhammers; Drilling; Concrete Breaker; & Air Spade
 Class 6: Tunnel Men; Tile Layers & Bottom Men
 Class 7: Caisson Diggers; & Dynamiters
 LABORERS: DuPage and Will Cos.:
 Common; Plasterer Tendets; Pumps for Dewatering & other unclassified Laborers
 Cement Gun Laborers
 Scaffold Laborers & Chimney Laborers over 40 ft.
 Windlass & Cement Gun
 Nozzle Laborers - Gunmen
 Stone Handlers & Derrickmen
 Jackhammermen
 Concrete Vibrator; Plumb-ers; Tenders; & Chain Saw Operators
 Firebrick & Boiler Setters, Tenders
 Chimney Tenders on Fire-Brick; Caisson Diggers & Well Point System Men
 Boiler Setter Plastic Tenders
 Jackhammer on Firebrick only

LANDSCAPE WORK (DuPage, Kane, Lake, McHenry & Will Cos.)
 Plantsmen
 Truck Driver; Tractor Trailer (3 Axles or more) and Equipment Operator
 Truck Drivers - Single Axle
 LABORERS: Lake County
 SEWER & WATER MAIN EXTENSIONS
 Class 1: General Laborers & Top Laborers
 Class 2: Second Bottom Men
 Class 3: Well Point System-Jackhammer Men (Tampers & Vibrators); Bottom Men; Pipelayer on Drains & Pipelayer Men; all Tunnel Work
 STREET PAVING & GRADE SEPARATION
 Class 1: General, Asphalt Plant Laborers
 Class 2: Laborers on Apsco, Birch Overman & Similar Spreader Equipment, Machine Screwmens, Mitre B Spreaders
 Class 2: Form Setters; Well Point; Jackhammer (Tampers & Vibrators); Bottom Men; Pipelayers on Drains; Catch Basin Diggers & Manhole; Power Driven Concrete Saw
 LABORERS: DeKalb County:
 Class I
 Class II
 Class III
 POWER EQUIPMENT OPERATORS:
 Class 1
 Class 2
 Class 3
 Class 4
 Class 5

FOONOTES:

- a. 4 Paid Holidays: Memorial Day; July 4th; Labor Day; & Thanksgiving Day
- b. Per Week Per Employee
- c. Six Paid Holidays: 5 Christmas Day; Memorial Day; July 4th; Labor Day; Thanksgiving Day; & New Years Day
- d. 1 year service - 1 week paid vacation - 2 or more years service - 2 weeks paid vacation

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)).

CLASSIFICATION DEFINITIONS - LABORERS:

DeKalb County

CLASS I - Common Laborers; Carpenters' Tenders; Tool, Cribmen, Firemen, or Salamander Tenders; Gravel Box Men; Dumpmen & Spotters; Form Handlers; Material Handlers; Fencing Laborers; Cleaning Lumber; Pit Men; Dispatchers; Landscapers; Unloading Laborers; Laying of Sod; Planting of Trees; Removal of Trees; Asphalt Plant Laborers; Wrecking Laborers; Fireproofing Laborers; Driving of Stakes; Stringlines for all Machinery; Asphalt Workers with Machines and Layers; Grade Checker; Signal Man on Cranes; Coring Machine Operator; Concrete Workers (wet), on Concrete paving; Placing, Cutting and Tying of Reinforcing Steel Form Setters-Street and Highway

CLASS II - Scaffold Workers; Handling of Materials Treated with any Foreign Matter Harmful to Skin or Clothing; Bulk Cement Handlers; Unloading of Bags; Tunnel Tenders in Free Air; Batch Dumpers; Mason Tenders; Kettle and Tank Men; Tank Cleaners; Plastic Installers; Motorized Buggies or Motorized Unit Used for Wet Concrete or Handling of Building Materials; Vibrator Operators; Mortar Mixer Operators; Cement Silica; Clay Fly Ash; Lime and Plasters Handlers (Bulk or Bag); Deck Hand; Dredge Hand and Shore Laborers; Bankmen on Floating Plant; Power Tools; Material Selector (Firebrick or Castable Material); Chain Saw Operators; Air Tamping Hammerman; Concrete Saw Operator; Front End Man on Chip Spreader; Luteman; Asphalt Raker

CLASS III - Jackhammer and Drill Operator; Laborers with De-Watering Systems; Bottom Sewer Workers Plus Depth; Cofferdam Workers Plus Depth; Caisson Workers Plus Depth; Gunnite Nozzle Men; Leadman on Sewer Work; Welders, Cutters, Burners, & Torchmen; Layout Man and/or Tile Layer; Screenman on Asphalt Pavers; Laborers Tending Masons with Hot Material; Multiple Concrete Duct-Leadman; Curb Asphalt Machine Operator; Ready-Mix Scalemen; Permanent, or Temporary Plant; Laser Beam Operator; Concrete Burning Machine Operators; Underpinning and Shoring of Building; Pump Men

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

Sewer, Heavy & Highway Construction:

CLASS 1 - Asphalt Plant; Asphalt Heater & Planer Combination; Asphalt Spreader; Autograder; Belt Loader; Caisson Rig; Curb Dumper; Central Redi-Mix Plant; Combination Backhoe Front End Loader Machine (1 cu. yd. Backhoe Bucket or over with Attachment); Concrete Breaker (Truck Mounted); Concrete Conveyor; Concrete Paver over 27E cu. ft.; Concrete Placer; Concrete Tube Float; Cranes, all attachments; Cranes, Hammerhead, Linden, Peco & Machines of a like nature; Creter Crane; Crusher, Stone, etc.; Derrick Boats; Derricks, traveling; Draggos; Field Mechanic-Welder; Formless Curb & Gutter Machine; Gradall & Machines of a like nature Grader, Elevating; Grader, Motor Grader, Motor Patrol, Auto Patrol, Form

DECISION NO. IL82-2032

CLASSIFICATION DEFINITIONS (CONT'D)

Grader, Pull Grader, Subgrader; Guard Rail Post Driver Mounted; Hoists, 1, 2, & 3 Drum; Hydraulic Backhoes; Locomotives; Mucking Machine; Piledriver or Skid Rig; Pre-stress Machine; Pump Cretes Dual Ram; Rock Drill - Crawler or Skid Rig; Rock Drill Truck Mounted; Roto Mill Grinder (36" & Over); Roto Mill Grinder (less than 36"); Slip Form Paver; Soil Test Drill Rig (Truck Mounted); Straddle Buggies; Hydraulic Telescoping Form (Tunnel); Tractor Drawn Belt Loader with or w/o attach. Pusher; Tractor with Boom; Tractaire with attachments; Trenching Machine; Truck mounted Concrete Pump with Boom; Underground Boring and/or Mining Machines under 5 ft.; Wheel Excavator; & Widener (Apsco)

CLASS 2 - Batch Plant; Bituminous Mixer; Bobcats (Over 3/4 cu. yd.); Boiler & Throttle Valve; Bulldozers; Car Loader Trailing Conveyors; Combination Backhoe Front End Loader Machine (less than 1 cu. yd. Backhoe Bucket or over with attachments); Compressor & Throttle Valve; Compressor, Common receiver (3); Concrete Breaker or Hydrohammer; Concrete Grinding Machine; Concrete Mixer or Paver 75 series to & incl. 27 cu. ft.; Concrete Spreader; Concrete Curing Machine, Burlap Machine, Belting Machine & Sealing Machine; Conveyor Muck Cars (Haglund or Similar type); Finishing Machine - Concrete; Greaser Engineer; Hi-lift Shovels or Front End Loader; Hoist - Sewer Dragging Machine; Hydraulic Boom Trucks (all attachments); Locomotives, Dinkey; Pump-cretes; Squeeze Cretes - Screw type pumps, Gypsum Bulker & Pump; Roller, Asphalt; Rotary Snow Plows; Robotiller, Seaman, etc., Self-propelled; Scoops - Tractor Drawn; Self-propelled Compactor Spreader - Chip - Stone, etc.; Scraper - Prime mover in Tandem (regardless of size); Tank Car Heater; Tractors, Push, Pulling Sheeps Foot, Disc, Compactor, etc.; & Tug Boats

CLASS 3 - Boilers; Brooms, All Power Propelled; Cement Supply Tender; Compressor, Common Receiver (2); Concrete Mixer (2 Bag & Over); Conveyor, Portable; Farm-type Tractors used for mowing, seeding, etc.; Firemen on Boilers; Forklift Trucks; Grouting Machine; Hoists, Automatic; Hoists, all Elevators; Hoists, Tugger Single Drum; Jeep Diggers; Pipe Jacking Machines; Post Hole Digger; power Saw, Concrete, Power Driven; Pug Mills; Rollers other than Asphalt; Seed & Straw Blower; Steam generators; Stump Machine; Winch Trucks with "A" Frame; Work Boats; & Tamper - Form-Motor Driven

CLASS 4 - Air Compressor - Small 170 & Under (1 to 5 not to exceed a total of 300 Ft.); Air Compressor - Large over 170; Asphalt Spreader Backend Man; Combination - Small Equipment Operator; Generators - Small 50KW & Under; Generators - Large over 50KW; Heaters, Mechanical; Hydraulic Power Unit (Piledriving or extracting); Light Plants, (1 through 5); Pumps, Over 3" (1 to 3 not to exceed a total of 300 ft.); Pumps, Well Points; Tractaires; Welding Machines (2 through 5); Winches, 4-small Electric Drill Winches; & Bobcats (up to & incl. 3/4 cu. yd.)

CLASS 5 - Oilers

SUPERSEDES DECISION

STATE: Ohio
 COUNTIES: Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, and Summit
 DECISION NUMBER: OH82-2037
 Supersedes Decision No.: OH81-2067, dated December 18, 1981 in 46 FR 61807
 DESCRIPTION OF WORK: Building and Residential Construction Projects

| ASBESTOS WORKERS: | Basic Hourly Rates | Fringe Benefits | CEMENT MASONS (CONT'D) | Basic Hourly Rates | Fringe Benefits |
|--|--------------------|-----------------|--|--------------------|-----------------|
| Ashtabula (Cities of Ashtabula & Geneva), Cuyahoga, Lake & Lorain Cos. | \$16.29 | 2.24 | Lorain Co. Portage, Stark, & Summit Cos.: | 18.05 | .81+b |
| Ashtabula (Rem. of Co.) Remaining Cos. | 15.64 | 2.42 | Commercial Construction | 15.19 | 1.72 |
| BOILERMAKERS | 16.10 | 2.04 | Residential Construction | 14.22 | 1.72 |
| BRICKLAYERS; Stonemasons; Ashtabula Co. | 15.75 | 2.805 | ELECTRICIANS: Cuyahoga & Lorain (Twp. of Columbia) Cos. | 16.84 | 3+ |
| Cuyahoga Co. | 16.42 | 2.45 | Lake Co.: | 16.75 | 3.2+ |
| Lake Co. | 15.97 | 2.74 | Commercial Construction | 9.15 | 4+ |
| Lorain Co. | 16.72 | 2.05+a | Residential Construction | 16.75 | 3.1+ |
| Portage and Summit Cos.: | 18.05 | .81+b | Lorain (Except Columbia Twp.): Commercial Construction | 9.98 | 3.1+ |
| Commercial Construction | 15.52 | 2.22 | Residential Construction | 10.78 | 3.2+ |
| Residential Construction | 13.92 | 1.82 | Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantus, Randolph, Ravenna, Rootstown, Shelbyville, Streetsboro, & Suffield), & Summit Cos.: | 15.70 | 3.3+ |
| Stark Co. | 15.74 | 2.57 | Commercial Construction | 10.94 | 3.3+ |
| CARPENTERS; Millwrights; Piledrivermen; Soft Floor Layers: | | | Residential Construction | 16.62 | 9.702+ |
| Ashtabula, Cuyahoga, & Lake Cos.: | 15.67 | 3.14 | Ashtabula Co. (Twps. of Colebrook, Wayne, Williamsfield, Orwell, & Windsor) & Portage (Remainder of Co.) Co. | 16.62 | +1.00 |
| Carpenters; Soft Floor Layers | 15.20 | 3.61 | | | |
| Millwrights | 15.50 | 3.31 | | | |
| Piledrivermen | 15.35 | 2.29 | | | |
| Portage & Summit Cos.: | 15.20 | 3.61 | | | |
| Commercial: | 15.50 | 3.31 | | | |
| Carpenters | 14.50 | 2.70+c | | | |
| Millwrights | 11.31 | 1.27 | | | |
| Piledrivermen | 15.93 | 1.77 | | | |
| Soft Floor Layers | 16.41 | 1.77 | | | |
| Lorain Co.: | 15.76 | 1.77 | | | |
| Carpenters; Soft Floor Layers | 15.37 | 2.23+d | | | |
| Millwrights | 15.20 | 3.61 | | | |
| Piledrivermen | 15.50 | 3.31 | | | |
| CEMENT MASONS: | | | | | |
| Ashtabula Co. | 16.42 | 2.45 | | | |
| Cuyahoga Co. | 16.72 | 1.62 | | | |
| Lake Co. | 16.72 | 2.05+a | | | |

| ELECTRICIANS (CONT'D) | Basic Hourly Rates | Fringe Benefits | LINE CONSTRUCTION (CONT'D) | Basic Hourly Rates | Fringe Benefits |
|--|--------------------|-----------------|---|--------------------|-----------------|
| Ashtabula Co. (Rem of Co.): Commercial Construction | 17.25 | 3.5% | Freedom, Hiram, Nelson, Palmyra, Paris, & Windham): Cable Splicer Op.; Linemen; Pole Digging Equipment Op. | 17.08 | 8% |
| Residential Construction | 8.10 | +2.75 | Groundmen | 13.66 | +7.0 |
| ELEVATOR CONSTRUCTORS: Ashtabula Co.: | 14.88 | +1.00 | Ashtabula Co. (Rem. of Co.): Cable Splicer; Equipment Op.; Line Truck Driver; Linemen | 13.05 | 3% |
| Mechanic | 70%JR | 2.465 | Groundmen | 9.80 | +1.75 |
| Helpers | 50%JR | 2.465 | Cuyahoga & Lorain (Columbia Twp.) Cos.: Cable Splicers; Equipment Ops.; Linemen | 17.93 | 3% |
| Helpers (Prob.) | 16.13 | 2.33+ | Truck Drivers (winch) Groundmen | 11.65 | 3% |
| Cos.: | 70%JR | e+f | Lorain (Rem. of Co.) Co.: | 16.75 | +60 |
| Mechanic | 50%JR | 2.33+ | Cable Splicers; Equipment Ops.; & Linemen | 10.89 | 3% |
| Helpers | 15.645 | 2.33+ | Groundmen | 18.73 | +1.75 |
| Helpers (Prob.) | 70%JR | e+f | Lake Co.: | 12.17 | 3% |
| Portage, Stark, & Summit Cos.: | 50%JR | 2.33+ | Cable Splicers; Equipment Operators; Linemen | 16.67 | +1.58 |
| Mechanic | 16.28 | 2.36 | Groundmen | 17.72 | 3% |
| Helpers | 14.08 | 2.66 | Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantus, Randolph, Ravenna, Rootstown, Shalersville, & Summit Cos.: | 8.34 | 1.58 |
| Helpers (Prob.) | 8.62 | 1.91 | Linemen | 12.50 | 3% |
| Commercial | 14.50 | 3.52 | Stark Co.: | 14.59 | 3.3+ |
| Residential | | | Cable Splicers | 2.00 | |
| IRONWORKERS: | | | | | |
| Ashtabula (NE 1/2 of Co.) Co. | 16.22 | 2.58 | | | |
| Ashtabula (NW 1/2 Cuyahoga, Lake, Lorain, Portage (excl. Ravenna Ordnance Depot), & Summit Cos.) | 15.26 | 2.39 | | | |
| Ashtabula (S 1/2 of Co.) & Portage (Ravenna Ordnance Depot) Cos. | 14.43 | 2.92 | | | |
| Stark Co. | 16.30 | | | | |
| LATHERS: | | | | | |
| Lorain (Western 1/2) | | | | | |
| LINE CONSTRUCTION: | | | | | |
| Ashtabula Co. (Twps. of Colebrook, Orwell, Wayne, Williamsfield & Windsor), Portage Co. (Twps. of Charleston, Edinburgh, | | | | | |

| DECISION NO. OH82-2037 | Basic Hourly Rates | Fringe Benefits | ELECTRICIANS (CONT'D) | Basic Hourly Rates | Fringe Benefits |
|--|--------------------|-----------------|---|--------------------|-----------------|
| Ashtabula Co. (Rem of Co.): Commercial Construction | 17.25 | 3.5% | Freedom, Hiram, Nelson, Palmyra, Paris, & Windham): Cable Splicer Op.; Linemen; Pole Digging Equipment Op. | 17.08 | 8% |
| Residential Construction | 8.10 | +2.75 | Groundmen | 13.66 | +7.0 |
| ELEVATOR CONSTRUCTORS: Ashtabula Co.: | 14.88 | +1.00 | Ashtabula Co. (Rem. of Co.): Cable Splicer; Equipment Op.; Line Truck Driver; Linemen | 13.05 | 3% |
| Mechanic | 70%JR | 2.465 | Groundmen | 9.80 | +1.75 |
| Helpers | 50%JR | 2.465 | Cuyahoga & Lorain (Columbia Twp.) Cos.: Cable Splicers; Equipment Ops.; Linemen | 17.93 | 3% |
| Helpers (Prob.) | 16.13 | 2.33+ | Truck Drivers (winch) Groundmen | 11.65 | 3% |
| Cos.: | 70%JR | e+f | Lorain (Rem. of Co.) Co.: | 16.75 | +60 |
| Mechanic | 50%JR | 2.33+ | Cable Splicers; Equipment Ops.; & Linemen | 10.89 | 3% |
| Helpers | 15.645 | 2.33+ | Groundmen | 18.73 | +1.75 |
| Helpers (Prob.) | 70%JR | e+f | Lake Co.: | 12.17 | 3% |
| Portage, Stark, & Summit Cos.: | 50%JR | 2.33+ | Cable Splicers; Equipment Operators; Linemen | 16.67 | +1.58 |
| Mechanic | 16.28 | 2.36 | Groundmen | 17.72 | 3% |
| Helpers | 14.08 | 2.66 | Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantus, Randolph, Ravenna, Rootstown, Shalersville, & Summit Cos.: | 8.34 | 1.58 |
| Helpers (Prob.) | 8.62 | 1.91 | Linemen | 12.50 | 3% |
| Commercial | 14.50 | 3.52 | Stark Co.: | 14.59 | 3.3+ |
| Residential | | | Cable Splicers | 2.00 | |
| IRONWORKERS: | | | | | |
| Ashtabula (NE 1/2 of Co.) Co. | 16.22 | 2.58 | | | |
| Ashtabula (NW 1/2 Cuyahoga, Lake, Lorain, Portage (excl. Ravenna Ordnance Depot), & Summit Cos.) | 15.26 | 2.39 | | | |
| Ashtabula (S 1/2 of Co.) & Portage (Ravenna Ordnance Depot) Cos. | 14.43 | 2.92 | | | |
| Stark Co. | 16.30 | | | | |
| LATHERS: | | | | | |
| Lorain (Western 1/2) | | | | | |
| LINE CONSTRUCTION: | | | | | |
| Ashtabula Co. (Twps. of Colebrook, Orwell, Wayne, Williamsfield & Windsor), Portage Co. (Twps. of Charleston, Edinburgh, | | | | | |

DECISION NO. OH82-2037

| Basic Hourly Rates | Fringe Benefits | Basic Hourly Rates | Fringe Benefits |
|--------------------|-----------------|--------------------|-----------------|
| 16.03 | 2.62 | 16.03 | 2.62 |
| 17.78 | .80 | 17.78 | .80 |
| 14.89 | 2.46 | 14.89 | 2.46 |
| 14.69 | 2.64 | 14.69 | 2.64 |
| 13.91 | 2.11 | 13.91 | 2.11 |
| 15.17 | 2.14+ | 15.17 | 2.14+ |
| 9.55 | 2.14+ | 9.55 | 2.14+ |
| 15.405 | 2.50 | 15.405 | 2.50 |
| 15.07 | 1.81 | 15.07 | 1.81 |
| 14.27 | 2.10 | 14.27 | 2.10 |
| 12.06 | 2.10 | 12.06 | 2.10 |
| 14.405 | 2.50 | 14.405 | 2.50 |
| 15.04 | 2.50 | 15.04 | 2.50 |
| 14.27 | 1.81 | 14.27 | 1.81 |
| 11.94 | 2.10 | 11.94 | 2.10 |
| 14.60 | 2.50 | 14.60 | 2.50 |
| 15.10 | 1.71 | 15.10 | 1.71 |

DECISION NO. OH82-2037

| Basic Hourly Rates | Fringe Benefits | Basic Hourly Rates | Fringe Benefits |
|--------------------|-----------------|--------------------|-----------------|
| 15.70 | 3.3% | 14.62 | 2.25 |
| 9.84 | +2.00 | 14.60 | 2.25 |
| 13.44 | 3.3% | 14.66 | 2.25 |
| 16.42 | +2.00 | 14.80 | 2.25 |
| 15.97 | 2.74 | 15.45 | 2.25 |
| 15.905 | 2.25 | 14.70 | 2.25 |
| 16.72 | 2.05+a | 14.65 | 1.67 |
| 18.05 | .81+b | 15.40 | 1.67 |
| 14.77 | 1.81 | 15.50 | 1.67 |
| 13.52 | 2.10 | 13.26 | 2.10 |
| 13.44 | 2.10 | 13.36 | 2.10 |
| 13.35 | 2.10 | 13.66 | 2.10 |
| 14.405 | 2.50 | 13.76 | 2.10 |
| 14.51 | 1.81 | 14.01 | 2.10 |
| 14.27 | 1.81 | 10.00 | 2.10 |
| 15.06 | 2.62 | 15.92 | 2.90 |
| 15.46 | 2.62 | 16.75 | 2.28 |
| 15.76 | 2.62 | 15.24 | 2.56 |
| 12.25 | 2.05+g | 14.67 | 2.15+h |
| 12.75 | 2.05+g | 10.10 | 1.08 |
| 13.00 | 2.05+g | 16.42 | 2.45 |
| 11.60 | 2.05+g | 18.74 | .01 |
| 12.35 | 2.05+g | 13.00 | .01 |
| 14.45 | 2.25 | 15.72 | 2.05+a |
| 14.95 | 2.25 | 18.05 | .81+a |
| | | 15.06 | 1.71 |

LINE CONSTRUCTION (CONT'D)

Linemen
 Truck Drivers; Groundmen
 Line Equipment Ops.
MARBLE SETTERS; TERRAZZO WORKERS; TILE SETTERS:
 Ashtabula Co.
 Cuyahoga Co.
 Marble Setters; Terrazzo Workers
 Tile Setters
 Lake Co.
 Lorain Co.
 Portage & Summit Cos.
 Stark Co.
 Marble Setters
 Terrazzo Workers
 Tile Setters
MARBLE SETTERS' FINISHERS:
 Ashtabula Co.
 Cuyahoga, Lake & Lorain Cos.
 Portage & Summit Cos.
PAINTERS:
 Ashtabula, Cuyahoga, Lake, Portage (No. of East West Turnpike), & Summit (No. of East West Turnpike), Lorain (NE part);
 Brush; Rollers; Paper-Hangers
 Sandblasting; Spray; Closed steel below 55 ft.
 Lorain (except NE part); Commercial Construction:
 Brush
 Roller
 Taping
 Residential Construction:
 Brush
 Taping
 Portage Co. (Ravenna Ordnance depot):
 Brush; Rollers; Waterproofing; Paperhang - dro Jet Cleaning; Hydro Jet Cleaning; Steam Cleaning; Spray; Epoxy-mastic (brush or roller)

PLUMBERS:
 Ashtabula, Cuyahoga, Lake, Portage (No. of #303), & Summit (No. of #303) Cos.
ROOFERS:
 Ashtabula, Cuyahoga, Lake, & Lorain Cos.
 Portage, Stark, & Summit Cos.
SHEET METAL WORKERS:
 Ashtabula, Cuyahoga, & Lorain Co.
 Portage, Stark, & Summit Cos.:
 Commercial Building
 Residential
 SPRINKLER FITTERS:
 Ashtabula, Cuyahoga, #303, Summit (No. of Hudson) Cos. & C.E.I.
 Power House in Avon Lake Remaining Counties
TERRAZZO WORKERS' FINISHERS:
 Ashtabula Co.
 Cuyahoga, Lake, & Lorain Cos.
 Portage & Summit Cos.
 Stark Co.
TILE SETTERS' FINISHERS:
 Ashtabula Co.
 Cuyahoga, Lake, & Lorain Cos.
LABORERS:
 Ashtabula Co.:
 Stonemason Tenders
 Sheetmetal & Shoring Men; Asphalt Rakers & Tamers; Pumpmen (Batch Trucks); Concrete Workers; Building Wreckers; Tool Checkers; Construction Laborers; All work not mentioned in classifications below to be paid at the rate of Construction Laborers
 Spreader Box Men
 Asphalt; Plasterers or Mortar Mixers; Squeegee man

Air & Machine Driven Tool Op.; Industrial Sewer Cleaning; Sewer Pipe Layers; Bottom Men (6 & over); Power Driven Wheelbarrows & Sweepers; Brick Batter & Drapping; Torches; Mud Jacking of Floors
 Stackmen; Swinging Scaffold Men
 Tunnel Laborers
 Gunite Blasters
 Cuyahoga County; Construction; Tenders
 Sewer & Utility; Power Driven Tools & Vibrators
 Jackhammer; Acetylene Burners; Muckers
 Swinging Scaffolds
 Gunnite Ops.; Blasters; Shooters; Caissons; Well Cylinder; Mine Workers w/o Air; & Cofferdams
 Topman on Free Standing Radial Stack
 Lake County.
 Building & Construction
 Gunnite Op.; Blasters & Shooters; Caissons; Wells; Cylinder Cofferdams; Mine Workers w/o Air; Swing Scaffolds; Acetylene Burners; Vibrators; Top Man on Free Standing Radial Stacks; Slip Forms Higher than 30';
 Fire Brick Tenders
 Lorain County:
 Building & Construction; Tool Crib; Carpenter Tender; Finishers Tender; Concrete Tenders; Concrete Handler; Guard Rail Erector; & Utility Construction
 Bottom Men; Scaffold Builder; Tunnel Laborers; Pipelayers; Air

DECISION NO. OH82-2037

CLASSIFICATION DEFINITIONS FOR POWER EQUIPMENT OPERATORS:

GROUP A - A-Frames; All Rotary Drills used on Caisson Work for Foundations & Sub-structure Work; Boiler Op. or Compressor Op. when Compressor or Boiler is mounted on Crane (piggyback operation); Boom Trucks; Cableways; Cherry Pickers; Combining Concrete Mixer & Tower; Concrete Pumps; Cranes; Derricks; Draglines; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Op. (hoisting builders materials); Helicopter Winch Op. (hoisting builders materials); Hoses; Hoisting Engines (two or more drums); Lift Slab or Panel Jack Op.; Locomotives; Maintenance Engineer (mechanic or welder); Mixer Paving (multiple drum); Mobile Concrete Pumps with Boom; Panelboard (all types on site); Pile Driver; Power Shovels; Side Booms; Slip Form Pavers; Straddle Carriers (building construction site); Tower Derricks; Trench Machines (over 24" wide)

GROUP B - Asphalt Paver; Bulldozer; CMI Type Equipment; Endloaders; Kohlman Type Loaders (dirt loading); Mucking Machines; Power Graders; Power Scoops; Power Scrapers; Push Cats

GROUP C - Air Compressor (pressurizing shafts or tunnels); All Asphalt Rollers; Fork Lifts; Hoist (one drum); House Elevators; Man Lift; Power Boiler (over 15 lbs., pressure); Pump Op. Installing or Operating Well Points or other Types of Dewatering System; Pumps (4" & over discharge); Submersible Pumps (4" & over discharge); Trenchers (24" & over)

GROUP D - Compressors on Building Construction; Conveyors (building material); Gunnite Machines; Mixers (cap., more than on bag); Mixers (one bag cap., side loader); Post Driver; Post Hole Digger; Pavement Breaker (hydraulic or cable); Road Widening Trencher; Rollers; Welder Operator

GROUP E - Backfillers and Tampers; Batch Plant; Bar & Joint Installing Machine; Bull Floats; Burlap & Curing Machines; Ciefplanes; Concrete Spreading Machines; Crushers; Drum Fireman (asphalt); Farm Type Tractors (pulling attachments); Finishing Machines; Form Trenchers; High Pressure Pumps (over 1/2" discharge); Hydro-Seeders; Self-propelled Power Spreader; Self-Propelled Subgrader; Tractors (pulling sheep foot roller or grader); Tire Repairment; Vibratory Compactors (with integral power)

GROUP F - Oiler; Light plant Op.; Power Driven Heaters (oil fired); Power Boilers (less than 15 lbs. pressure); Submersible Pumps (under 4" discharge); Pumps (under 4" discharge); tenders

| Basic Hourly Rates | Fringe Benefits | Job Description | Basic Hourly Rates | Fringe Benefits |
|--------------------|-----------------|---|--------------------|-----------------|
| 13.01 | 2.50 | Cofferdam Worker; Powder Men & Dynamite Blaster; Creosote Workers; Form Setter; Hod Carrier; Laser Beam Setup Men | 13.01 | 2.50 |
| 13.11 | 2.50 | Mason Tenders; Mortar Mixers; & Stonemason Tenders | 13.11 | 2.50 |
| 13.41 | 2.50 | Gunnite Operator | 13.41 | 2.50 |
| 8.10 | .61+a+b | POWER EQUIPMENT OPERATORS: TORS; Well & Pump Work (Incl. Drilling & Repair of All Water Wells; Test Holes & Wells; & Installation & Repair of Deep Well Type of Shallow Well Pumps on Water Wells); Well Driller & Pump Installer | 8.10 | .61+a+b |
| 17.52 | 3.02 | POWER EQUIPMENT OPERATORS: Ashtabula, Cuyahoga, Lake, & Lorain Cos.: | 17.52 | 3.02 |
| 17.37 | 3.02 | GROUP A | 17.37 | 3.02 |
| 17.02 | 3.02 | GROUP B | 17.02 | 3.02 |
| 16.24 | 3.02 | GROUP C | 16.24 | 3.02 |
| 15.92 | 3.02 | GROUP D | 15.92 | 3.02 |
| 13.74 | 3.02 | GROUP E | 13.74 | 3.02 |
| 17.24 | 3.02 | GROUP F | 17.24 | 3.02 |
| 17.08 | 3.02 | GROUP A | 17.08 | 3.02 |
| 16.73 | 3.02 | GROUP B | 16.73 | 3.02 |
| 15.92 | 3.02 | GROUP C | 15.92 | 3.02 |
| 15.59 | 3.02 | GROUP D | 15.59 | 3.02 |
| 13.38 | 3.02 | GROUP E | 13.38 | 3.02 |
| 14.38 | 2.56 | LABORERS (CONT'D) Air & Power Driven Tools; Burner on Demolition Work; Swinging Scaffold; Mucker; Caisson Worker; Powder Men & Worker; Cofferdam Dynamite Blasters; Creosote Workers; Mortar Mixers; Form Setter; Mason Tenders; Plasterers; Tenders; Hod Carriers; Laser Beam Setup Man Operator | 14.38 | 2.56 |
| 11.72 | 2.56 | Portage & Summit Cos.: Residential Construction: Common Laborers; Welders; Tenders; Carpenter; Tenders; Landscape Laborers; Mason Tender; Concrete Bucket Tender | 11.72 | 2.56 |
| 13.27 | 2.56 | Air Driven Boring Machine; Tamping Ops.; Asphalt Raker; Paving Bed Maker; Material Mixer; Wire Mesh Handler; Hook-up Man on Demolition Work; Scaffold Erector; Structural Precast Erector; Power Tools, Air, Gas, or Electric | 13.27 | 2.56 |
| 13.42 | 2.56 | Pipe Layers; Rock Drillers; Muckers-Tunnelers; Burners; Form Setters; Power Saws; Jackhammer; Barco Type Tampers; Bottom Man; Hod Carrier; Power Buggy or Power Wheelbarrow | 13.42 | 2.56 |
| 13.27 | 2.56 | Gunnite Nozzlemen; Tunnel Miners; Water Line Caulkers; Dynamite Men; Pump Hose Nozzlemen Stark Co. Building & Construction: Tool Cribman; Carpenters; Tenders; Finishers; Tenders; Concrete Handler; Utility Construction Laborer; Guard Rail Erector; Bottom Men; Scaffold Builder; Tunnel Laborers; Pipe Layers; Air & Power Driven Tools; Burner on Demolition; Swinging Scaffold; Mucker; Caisson Worker; | 13.27 | 2.56 |
| 12.81 | 2.50 | Guard Rail Erector | 12.81 | 2.50 |

DECISION NO. OH82-2037

LABORERS (CONT'D)

DECISION NO. OH82-2037PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

- a. \$75.00 per year
- b. 2 paid holidays: C & D
- c. \$150.00 per year
- d. 2 paid holidays: C & D
- e. 7 paid holidays: A through F, & Day after Thanksgiving.
- f. 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.
- g. 2 paid holidays: C & D
- h. 1 paid holiday: D providing the employee has worked 5 consecutive days before and after the holiday.
- i. 3% of gross earnings to SASMI

FOOTNOTES FOR POWER EQUIPMENT OPERATORS:

- a. 9 Paid Holidays: New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; Christmas Eve Day; & Christmas Day
- B. Employees who have been in continuous employment of the company for less than 1 year as of January 1 will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year - 2 wks' paid vacation; 11th continuous calendar year - 3 wks' paid vacation.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

[FR Doc. 82-13614 Filed 5-20-82; 8:45 am]

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Federal Register

Friday
May 21, 1982

Part IV

Department of Housing and Urban Development

Office of the Secretary

Comprehensive Improvement Assistance
Program; Low Income Housing

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 868

[Docket No. R-82-909]

Comprehensive Improvement Assistance Program; Low-Income Housing

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule revises the requirements for the modernization of existing public housing projects by setting forth simplified, more flexible requirements as a result of the Department's consideration of the public comments received on the Comprehensive Improvement Assistance Program (CIAP) interim rule, published April 14, 1981, and the Department's own efforts to reduce burdensome requirements.

EFFECTIVE DATE: July 19, 1982.

FOR FURTHER INFORMATION CONTACT: Pris Peake, Office of Public Housing, Department of HUD, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5595. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On April 14, 1981, the Department published an interim rule (46 FR 21932), setting forth the requirements for the CIAP. Under the CIAP, the Department is authorized to provide financial assistance to Public Housing Agencies (PHAs), including Indian Housing Authorities (IHAs), to improve the physical condition and upgrade the management and operation of existing public housing projects to assure that such projects continue to be available to serve low-income families. Comments were invited until June 15, 1981.

Comments were received from 15 organizations and individuals. Each comment was carefully considered. The following is a summary of the comments received and of the changes made to the interim rule by major subject area.

A. Comprehensive Modernization

Four commentors advocated greater flexibility in the use of two-stage funding for Comprehensive Modernization because of the large modernization needs of some PHAs and projects in relation to the small fund allocations of some HUD offices. The Department agrees that greater flexibility is desirable and, therefore, requires two-stage funding for PHAs that lack modernization capability and permits two-stage funding for PHAs that

lack management capability. The Department also permits two-stage funding where the magnitude of the total funds required for the Comprehensive Modernization is such that one-stage funding is precluded by the HUD office's allocation of funds. The Department believes that the routine use of two-stage funding is not consistent with the statutory intent to fund modernization in a comprehensive, rather than a piecemeal, manner and that such routine use will discourage PHAs from comprehensive planning of the physical and management improvements at specific projects.

Two commentors recommended annual funding of piecemeal modernization within the context of a comprehensive modernization plan for the projects involved, e.g., partial funding of five projects every year for five years rather than total funding of one project every year. Another commentor recommended that the CIAP be made responsive to variations from the comprehensive modernization approach where those variations are reasonably responsive to the amount of funds available and the individual PHA's modernization needs. Again, the Department does not believe that these approaches are consistent with the statutory intent and, therefore, did not accept these comments. The statute clearly requires comprehensive modernization of projects with the limited exceptions of special purpose and emergency needs.

Another commentor questioned why the implementation period for Comprehensive Modernization was limited to three years when the statutory maximum was five years. The Department believes that a three-year implementation period is adequate for the vast majority of Comprehensive Modernization programs, but will approve up to five years on an exception basis.

Another commentor expressed concern about the timing of the funding of the second stage of Comprehensive Modernization. For example, delay in second stage funding may cause the design to be outdated or the cost estimates to be off. The Department concurs that the timing is important and will work with PHAs to minimize any adverse effects. However, second stage funding is contingent upon the availability of funds and PHA compliance with HUD regulatory and statutory requirements.

B. Special Purpose Modernization and Energy Audits

Five commentors requested that PHAs be allowed to apply for special purpose

modernization beyond the first year of their five-year plans. The Department acknowledges the difficulties this may have created and has decided to provide greater flexibility since the energy audit procedures will not be published until late-Federal Fiscal Year (FFY) 1982. PHAs that were approved for modernization in FFY 1981 are now eligible to apply for special purpose modernization through FFY 1983. PHAs that were not approved for modernization in FFY 1981 are now eligible to apply for special purpose modernization in the first two years of their five-year plans. This allows an extra year for all PHAs to respond satisfactorily to the energy audit requirements and to receive funding for cost-effective energy conservation work items.

Three commentors requested clarification on the timing of energy audits and their relationship to special purpose modernization. All PHAs are required by 24 CFR Part 865, Subpart C, to conduct PHA-wide energy audits by May 27, 1983. As indicated above, during FFY 1982, the Department will issue guidelines for PHAs on how to conduct energy audits. This rule clarifies that before approval of Comprehensive Modernization or special purpose modernization, a project must have undergone an energy audit.

C. Emergency Modernization

Two commentors recommended that the definition of emergency modernization be expanded to include the protection of the physical integrity of the structures. Since the statute limits emergency modernization to correcting conditions which threaten the health or safety of the tenants, emergency modernization funds may be used only when protection of the integrity of the structures is necessary to protect tenant life, health and safety or for improvements related to fire safety. If an application which includes emergency modernization and other items does not satisfy the funding preference for cost savings, the other items may be eliminated and the emergency modernization items funded.

D. Proration of Administrative Salaries

Six commentors recommended that PHAs be allowed to charge to modernization a portion of the salaries of non-technical and technical personnel assigned part-time to the modernization program, regardless of whether the positions were in existence before the PHA's Performance Funding System base level was established. This comment was accepted. However, such

salaries are eligible costs only where the scope and volume of the modernization-related work are beyond that which could be reasonably expected to be accomplished by such personnel in the performance of their normal duties. Any proration of salaries must be justified by the PHA and authorized by the HUD office and must be reflected by an appropriate revision to the PHA's operating budget.

E. Selection of PHAs

Two commentors expressed concern that the CIAP was a program to reward poor management and that PHAs with serious physical and management problems would have a better chance for funding than PHAs with serious physical problems, but good management. It is not the intent of the CIAP to reward poor management or to exclude from participation PHAs with management problems. The statute directs the Department to give preference to PHAs which have demonstrated a capability of carrying out the activities proposed in their comprehensive plans. On the other hand, one of the statutory purposes of the CIAP is to upgrade the management and operation of public housing projects. The Department does not believe that a rigid rating system is appropriate and prefers to retain flexibility by allowing HUD offices to exercise judgment in making funding decisions. HUD offices are authorized to disqualify any PHA from funding consideration if its lack of management or modernization capability is so serious that it would be unable to use the funds in a timely and effective manner or if the PHA has not demonstrated an effort to improve its management as a result of past HUD reviews or technical assistance.

One commentor recommended that the method for selecting PHAs to participate in the CIAP be reevaluated to insure participation by small PHAs. The Department wishes to emphasize that all sizes of PHAs are eligible and that the current method of selection does not preclude small PHAs from participation. The statute also directs the Department to give preference to PHAs with projects having conditions which threaten the health or safety of the tenants or having a significant number of vacant, substandard units. Therefore, the extent of physical need will be a selection factor, regardless of the size of the PHA.

For a number of years, the Department has emphasized the need for economy and efficiency in modernization. By requiring that PHAs undertake management improvements as part of programs for the physical

improvement of projects, the Department anticipated that after modernization the projects could be operated in a more economical and efficient manner. Today's high operating costs and the resulting need for large operating subsidies are the most serious issues facing the Public Housing Program. The reality of limited budget resources makes it essential that PHAs take effective action, through modernization, to achieve operating cost savings. Therefore, in addition to the two factors for funding preference previously described, i.e., project physical need and PHA capability, the Department believes that the degree of cost savings should also be a factor in funding selection. Accordingly, the Department is adding an additional factor, giving funding preference to PHAs which demonstrate that the modernization will result in the greatest cost savings. This additional funding preference for cost savings is not applicable to physical improvements of an emergency nature affecting the life, health and safety of tenants or related to fire safety.

An additional concern raised during the review of the rule was the approval of Comprehensive or special purpose modernization where modernization was not financially feasible and would not result in long-term physical and social viability. Under the CIAP, the PHA is required to undertake a thorough analysis of its particular problems and design a comprehensive strategy for remedying those problems. Therefore, the Department has determined that it is appropriate to require PHAs, before developing their Preliminary Applications in consultation with local officials, to determine that the proposed Comprehensive or special purpose modernization is financially feasible and will result in long-term physical and social viability. When such a determination cannot be made, the PHA must consider alternatives to improvement of all existing units, such as changes in project density, basic design, unit distribution and/or household type, as well as demolition or disposition under 24 CFR Part 870, and include the selected alternative in the Preliminary Application. Where such a determination can be made, the PHA shall consider every possible approach to reducing operating costs and include the selected approaches in the Preliminary Application.

In view of the anticipated funding of modernization programs from development funds, a provision has been added to the rule which requires PHAs using such funds to comply with

the requirements and procedures for application approval, except that they are not subject to competitive selection criteria. The rule further provides that the availability of development funds may be taken into account in making modernization funding decisions.

In addition, section 14(f) of the statute states that where an application for modernization proposes partial or total demolition of a project, the Department may not approve the application unless timely replacement of the units will be undertaken by the PHA, the total cost of providing replacement housing is less than the total cost of rehabilitation, except where waived by HUD, and low-income families displaced by demolition will be provided with decent, safe, sanitary, and affordable housing. This statutory requirement is consistent with the requirements of 24 CFR Part 870, with which the PHA must comply (see Section 868.4(a)).

F. Consultation with Local Officials/Tenants

One commentor questioned how the degree of local government and tenant support for proposed modernization would be measured by the HUD office, particularly since the method of consultation is not specified. The degree of local government support may be measured by written support from the locality, which may include evidence that the locality has provided or will provide additional funding for the project or its surrounding neighborhood. The degree of tenant support may be measured by the tenant comments and recommendations secured by the PHA before the Joint Review.

Another commentor stated that the tenant participation requirements should be strengthened and expanded to include emergency modernization. The Department believes that the requirements, as written, are adequate to secure meaningful tenant participation and are inappropriate where correction of physical deficiencies of an emergency nature is involved. Therefore, the comment was not accepted.

G. Replacement Reserves

Five commentors urged that the replacement reserves be established and funded at the earliest possible date to assure that future needs will be met. The Department is currently developing its criteria and procedures for funding these reserves with the objectives of funding them at the earliest possible date. Another commentor requested clarification of the requirement that PHAs provide gross estimates of future

replacement costs at the projects to be comprehensively modernized. The Department has this issue under consideration and will provide further guidance at a future date.

H. Selection of Architects/Engineers

Two commentors questioned why it was necessary to obtain professional services through the competitive negotiations process. The Department believes that this process, which is advocated by various professional organizations, will enable the PHA to select the most highly qualified architect/engineer to provide the required services at a fair and reasonable cost.

I. Contracting Requirements

Two commentors stated that the contracting requirements should be reduced and six commentors advocated greater flexibility in PHA issuance of change orders without prior HUD approval. The Department agrees that the contracting requirements were burdensome and has reduced them significantly. The Department has adopted a basic approach which relies on certification where the PHA has demonstrated satisfactory past performance in modernization contracting and has adequate in-house technical capability. However, where there are deficiencies in the PHA's performance or capability, the Department reserves the authority to impose additional requirements.

J. Modernization and Energy Conservation Standards

In order to carry out the directives under section 14(j)(2) of the United States Housing Act of 1937, as amended, to issue rules and regulations establishing standards which will provide decent, safe and sanitary living accommodations in public housing projects and for energy conserving improvements in such projects, the general criteria for such standards are set forth in § 868.18. The Modernization Standards and the Energy Conservation Standards will be published separately and an opportunity will be afforded for public comment.

K. Miscellaneous

One commentor requested more information on the definition of an eligible project. The Department is unclear what additional information is required beyond what is provided in § 868.2. The same commentor requested a more detailed explanation of the application and reporting process. Additional guidance is provided in the CIAP Handbook 7485.1 REV-1 which

will be printed and available at HUD offices.

One commentor noted that estimating planned expenditures by quarter is difficult. The Department has reduced its requirements to require only that PHAs estimate planned expenditures by year, one year at a time. The same commentor requested clarification of the minority business enterprise (MBE) goal. Additional guidance is provided in the CIAP Handbook 7485.1 REV-1.

One commentor stated that HUD funding of preventive maintenance would protect the public housing stock and increase the effectiveness of programs such as the CIAP. This comment reflects a concern which is outside the realm of the CIAP.

One commentor requested guidance on how to handle a scattered site project and two contiguous projects. The CIAP Handbook 7485.1 REV-1 provides guidance in this area. Scattered site projects are treated the same as non-scattered site projects, i.e., the entire scattered site project is funded in one stage. Two or more separate, but contiguous, projects may be funded together for Comprehensive Modernization.

One commentor stated that the planning costs of non-financially distressed PHAs should be reimbursable in cases where the PHAs are not funded. Due to limited fund availability, this is not possible.

One commentor recommended that the Department establish management standards against which PHA management improvement needs could be measured. The Department believes that this comment has merit and is pursuing this matter for future implementation.

One commentor recommended that the Davis-Bacon wage rate requirement be eliminated. Since this requirement is statutory, the Department cannot accept this comment.

One commentor recommended that all products, programs and computer software developed through management improvements funded by the CIAP remain in the public domain. Although the Department believes that this comment has merit, the feasibility of imposing such requirements requires further study.

Another commentor advocated raising the dollar threshold from \$10,000 to \$100,000 as to when bid bonds and performance and payment bonds are required in order to encourage greater participation from minority and women's business enterprises. The Department did not accept this comment because it does not believe that a higher threshold would afford PHAs adequate

protection against frivolous bids and contractor defaults.

One commentor maintained that the requirements for prior HUD approval of budget revisions were burdensome and that budget revisions should be processed on a quarterly basis. The CIAP Handbook provides for minor changes to be approved without PHA submission of formal budget revisions. This procedure provides adequate flexibility to both HUD and PHAs.

One commentor recommended that the provisions concerning eligibility for funding of certain staff to provide social services were confusing and should be deleted. These provisions have been deleted.

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

Information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control numbers. The applicable regulatory sections and OMB control numbers are listed below:

| CFR citation | OMB control No. |
|--------------|-----------------------------|
| § 868.5(b) | 2502-0218. |
| § 868.5(c) | 2502-0208. |
| § 868.5(e) | 2502-0208. |
| § 868.5(f) | 2502-0208. |
| § 868.7 | 2502-0218. |
| § 868.8 | 2502-0218. |
| § 868.12(e) | 2502-0157 and 2502-0216. |
| § 868.12(f) | 2502-0157. |
| § 868.12(g) | 2502-0157. |
| § 868.12(h) | 2502-0157. |
| § 868.12(i) | 2502-0219. |
| § 868.13(b) | 2502-0188. |
| § 868.13(c) | 2502-0164 and 2502-0219. |
| § 868.14(a) | 2502-0164 and 2502-0219. |
| § 868.14(b) | 2502-0219. |
| § 868.15 | 2502-0164 and 2502-0208. |
| § 868.17 | 2502-0219. |

A Finding of No Significant Impact with respect to the environment was

made in accordance with HUD regulations 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, for the interim rule and is applicable to the final rule. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 5218, 451 Seventh Street, SW., Washington, D.C. 20410.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was listed as item (B) 13 H-21-80 under the Office of Housing in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41713) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number and title are 14.158, Public Housing—Modernization of Projects.

OMB Control Numbers: 2502-0157; 2502-0164; 2502-0188; 2502-0208; 2502-0216; 2502-0218; and 2502-0219.

List of Subjects in 24 CFR Part 868

Loan programs: Housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, 24 CFR Part 868 is revised to read as follows:

PART 868—COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM

- Sec.
- 868.1 Purpose.
 - 868.2 Applicability.
 - 868.3 Definitions.
 - 868.4 Eligible costs.
 - 868.5 Procedures for obtaining approval of a modernization program.
 - 868.6 Modernization Project.
 - 868.7 Tenant participation.
 - 868.8 Homebuyer participation.
 - 868.9 Other program requirements.
 - 868.10 Special requirements for homeownership projects.
 - 868.11 Special requirements for Section 23 Leased Housing Bond-Financed projects.
 - 868.12 Contracting requirements.
 - 868.13 Modernization financing.
 - 868.14 Progress reporting.
 - 868.15 Budget revisions.
 - 868.16 On-site inspections.
 - 868.17 Fiscal closeout of a modernization program.
 - 868.18 Modernization and Energy Conservation Standards.

Authority: United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 868.1 Purpose.

Section 14 of the United States Housing Act of 1937, as amended, establishes the Comprehensive Improvement Assistance Program (CIAP), authorizing the Department of Housing and Urban Development (HUD) to provide financial assistance to Public Housing Agencies (PHAs), including Indian Housing Authorities (IHAs), to improve the physical condition and upgrade the management and operation of existing public housing projects to assure that such projects continue to be available to serve low-income families. These physical and management improvements are financed by annual contributions provided under section 5(c) of the Act. The purpose of this Part is to prescribe requirements and procedures for the CIAP. In the case of modernization programs funded from contract authority made available under section 5(c)(3)(C) of the Act, as amended by the Housing and Community Development Amendments of 1981, the PHA shall comply fully with the requirements and procedures under § 868.5, but shall not be subject to competitive selection criteria thereunder so that any application meeting the regulation requirements will be funded. The availability of such additional contract authority may be considered in making the preliminary funding decisions under § 868.5(h).

§ 868.2 Applicability.

This Part applies to PHA-owned low-income public housing projects, including conveyed Lanham Act and Public Works Administration (PWA) projects, and to section 23 Leased Housing Bond-Financed projects, for which PHAs request assistance under the CIAP in Federal Fiscal Year (FFY) 1981 and thereafter. This Part also applies to the implementation of modernization programs which were approved before FFY 1981. This Part does not apply to projects under the Section 23 Leased Housing Non Bond-Financed Program, the section 10(c) Leased Housing Program, and the Section 23 and Section 8 Housing Assistance Payments Programs.

§ 868.3 Definitions.

As used in this Part:
 "Act" means the United States Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.).
 "Annual Contributions Contract (ACC)" means a contract under the Act between HUD and the PHA, containing the terms and conditions under which the Secretary makes loans and annual contributions to assist PHAs in providing decent, safe and sanitary

housing for families of low-income and provides modernization funds to PHAs to improve existing public housing projects.

"Comprehensive Modernization" means a modernization program for a project which provides for all needed physical and management improvements. Under the CIAP, all modernization programs are Comprehensive Modernization, except those defined as special purpose, emergency or homeownership.

"Emergency modernization" means a modernization program for a project that is limited to physical work items of an emergency nature, affecting the life, health and safety of tenants or related to fire safety. Under emergency modernization, management improvements are not eligible modernization costs.

"Financial feasibility" means that the cost (excluding the cost of management improvements) of a modernization program does not exceed the prototype cost of a new project.

"Financially distressed PHA" means a PHA that has an operating reserve level of 20 percent or less of its authorized maximum or other level as determined by HUD, as shown on the latest year-end financial statement.

"Force account labor" means labor directly employed by the PHA on either a permanent or a temporary basis.

"Homebuyer Agreement" means a Mutual Help and Occupancy Agreement or a Turnkey III Homebuyer's Ownership Opportunity Agreement.

"Homeownership modernization" means a modernization program for a project that is under the Turnkey III Homeownership Opportunities Program or the Mutual Help Homeownership Opportunities Program. Under homeownership modernization, limited physical improvements are eligible modernization costs, but management improvements are not eligible modernization costs.

"HUD office" means the HUD Area Office of Multifamily Service Office with which the PHA normally transacts its low-income housing business.

"Lack of management capability" means that the PHA has inadequate management practices, as determined by the HUD office on the basis of regular monitoring and performance of on-site reviews, audits and surveys and that the PHA has not taken appropriate corrective action. Management practices which are to be considered include, but are not limited to: management, financial and accounting controls; tenant selection and eviction; occupancy levels; rent collection; and maintenance.

"Lack of modernization capability" means that the PHA has previously approved, but unobligated, modernization funds that are over three years old and that the HUD office has determined that the failure to obligate such funds is due to reasons within the PHS's control. "Unobligated" means that the PHA has not awarded contracts or started force account work for use of the funds. "Funds that are over three years old" mean funds approved in a FFY which is three or more FFYs before the current FFY. For example, if the PHA is applying for FFY 1982 funds, then "funds that are over three years old" are those from FFY 1978 and prior FFYs. "Reasons within the PHS's control" mean that the PHA did not take every feasible action toward completion and excludes lengthy delays outside of the PHA's control, such as litigation, environmental reviews, strikes, and other reasons determined to be valid by the HUD office.

"Major repairs" means work items that are usually not recurrent, are substantial in scope, involve expenditures that would otherwise materially distort the level trend of maintenance expenses, and may include replacement of structural elements and nonexpendable equipment due to normal wear and tear by items of substantially the same kind.

"Modernization funds" mean funds derived from an allocation of annual contributions contract authority under Section 5(c) of the Act for the purpose of financing physical and management improvements under an approved modernization program.

"Modernization program" means a PHA's program for carrying out modernization, as set forth in the proposed or approved Final Application for modernization funds.

"Modernization Project" means the improvement of one or more existing public housing projects. The term "project" means a development project with a unique project number.

"Special purpose modernization" means a modernization program for a project that is limited to cost-effective energy conservation work items which will not be adversely affected by any subsequent Comprehensive Modernization and that is approved only on a one-time basis for a project. For such projects, management improvements are not eligible modernization costs. PHAs that were approved for modernization in FFY 1981 are eligible for special purpose modernization through FFY 1983. PHAs that were not approved for modernization in FFY 1982 are eligible to apply for special purpose

modernization only in the first two years of their five-year plans. Special purpose modernization also means the approval of additional contract and/or budget authority to effect the transfer of modernization funds between projects of modernization programs approved before July 1, 1978 or to meet increased interest costs.

"Work item" means any separately identifiable unit of work constituting a part of a modernization program.

§ 868.4 Eligible costs.

(a) *Physical improvements.* Physical improvements eligible for modernization funding may include alterations, betterments, additions, replacements and major repairs that are necessary to meet the Modernization and Energy Conservation Standards prescribed in § 868.18 for decent, safe and sanitary living conditions in public housing projects. These Standards may be exceeded only when necessary or highly desirable for the long-term physical and social viability of the individual project. If demolition is proposed, the PHA shall comply with 24 CFR Part 870.

(b) *Management improvement costs.*—(1) *Eligibility.* Management improvements that are project specific of PHA-wide in nature are eligible modernization costs subject to the following conditions:

(i) The management improvements are necessary to correct identified management problems and to sustain the physical improvements at the project to be modernized.

(ii) The management improvements require additional funds for implementation and the funds are not available from other sources.

(iii) The combined costs for management improvements and planning under paragraph (d) of this section shall not exceed 10 percent of the approved physical improvement costs for a PHA in a particular FFY, unless specifically approved by HUD. Under paragraph (d) of this section, planning costs shall not exceed five percent of the funds available to the HUD office in a particular FFY.

(iv) Management improvement costs shall be fundable only for the implementation period of the physical improvements. In rare cases, the HUD office may approve a longer period, up to a maximum of five years, where it is clearly shown to be necessary to complete the initial installation and demonstrate that the management work item will bring about needed management improvements.

(v) Where an approved modernization program includes management improvements which involve ongoing

costs, HUD will not be obligated to provide continued funding or additional operating subsidy after the end of the implementation period of the management improvements. The PHA shall be responsible for finding other funding sources, reducing its ongoing management costs, or terminating the management activities.

(2) *Eligible management areas.* Subject to the conditions set forth in paragraph (b)(1) of this section, management improvements may involve or upgrade the following areas:

(i) Management, financial and accounting control systems of the PHA which are related to the project to be modernized;

(ii) Adequacy and qualifications of personnel employed by the PHA in the management and operation of the project to be modernized for each category of employment; and

(iii) Adequacy and efficacy of the following for the project to be modernized:

- (A) Tenant programs and services;
- (B) Tenant and project security;
- (C) Tenant selection and eviction;
- (D) Occupancy;
- (E) Rent collection; and
- (F) Maintenance.

(c) *Tenant moving costs.* Moving costs for tenants who have to be moved, either temporarily or permanently, to accommodate the modernization, including the move back to the modernized project or units where necessary, are eligible modernization costs. The PHA shall provide temporary or permanent housing at comparable cost for affected tenants on a nondiscriminatory basis.

(d) *Planning costs.* Planning costs necessary for developing the Preliminary and/or Final Applications (i.e., costs incurred before modernization program approval) are eligible modernization costs. These costs may be reimbursed after Final Application approval. Financially distressed PHAs, as defined in § 868.3, may request approval from HUD for up-front funding of planning costs where the HUD office determines that developing the Preliminary and/or Final Applications would otherwise present an undue financial hardship. Not more than five percent of the funds available to the HUD office in a particular FFY shall be used for planning costs.

(e) *Administrative costs.* Administrative costs necessary for the additional design and implementation of the physical and management improvements (i.e., costs to be incurred after modernization program approval)

are eligible modernization costs, as follows:

(1) *Non-technical and technical salaries.* The salaries of non-technical and technical PHA personnel assigned full-time or part-time to the modernization program are eligible modernization costs. Any proration of salaries shall be justified by the PHA, authorized by the HUD office and reflected by an appropriate revision to the PHA's operating budget.

(2) *Employee benefit contributions.* PHA contributions to employee benefit plans on behalf of non-technical and technical PHA personnel are eligible modernization costs in proportion to the amount of salary charged to the modernization program.

(f) *Replacement reserves.* (Reserved).

(g) *Homeownership projects.* For homeownership projects only, eligible physical improvements are limited to work items which are not the responsibility of the homebuyer families and which are related to health and safety, correction of development deficiencies and cost-effective energy conservation. Major repairs or replacements, additions, items which are the responsibility of the homebuyer families, and management improvements are not eligible modernization costs for homeownership projects.

§ 868.5 Procedures for obtaining approval of a modernization program.

(a) *HUD notification.* As soon as possible after modernization funds for a particular FFY become available, HUD shall give written notification of the availability of such funds and the time frame for submission of the Preliminary Applications.

(b) *PHA consultation with local officials and tenants/homebuyers.* The PHA shall develop the application in consultation with local officials and tenants/homebuyers at the project to be modernized, as set forth in § 868.7 and § 868.8. Before developing the Preliminary Application, the PHA shall consult with local officials as to whether the proposed Comprehensive or special purpose modernization is financially feasible and will result in long-term physical and social viability at the project.

(Approved by the Office of Management and Budget (OMB) under OMB control number 2502-0218.)

(c) *Preliminary Application.* Based on an initial comprehensive assessment of its improvement needs, including a determination of the financial feasibility of the proposed modernization and the long-term viability of the project(s) after

Comprehensive or special purpose modernization, the PHA shall submit to the HUD office a Preliminary Application, in a form prescribed by HUD, which shall contain:

(1) A five-year plan, which is the PHA's initial comprehensive assessment of the modernization funds to be requested over a five-year period to meet the total physical and management improvement needs of its projects, including any special purpose and homeownership needs, as well as any emergency needs in the current year. The plan provides for gross estimates of the total needs of the project(s) for which Comprehensive Modernization is requested and for gross estimates of the specialized needs of the project(s) for which special purpose, emergency or homeownership modernization is requested.

(2) A brief explanation of the priority order of the projects for which modernization funding is requested in the current FFY (see paragraph (h) of this section).

(Approved by the OMB under OMB control number 2502-0208.)

(d) *HUD screening.* The HUD office shall screen the Preliminary Application on the basis of the appropriateness of the priority order of the projects, comprehensiveness of the project listing, reasonableness of estimated costs and cost savings, and PHA management and modernization capabilities as defined in § 868.3.

(e) *PHA preparation for Joint Review.* The PHA shall prepare for the Joint Review by:

(1) Reaching agreement with the HUD office on the specific project(s) to be covered during the Joint Review;

(2) Completing a detailed comprehensive assessment, in a form prescribed by HUD, of the total physical and management improvement needs of the project(s) for which the PHA is requesting Comprehensive Modernization and of the specialized needs of the project(s) for which the PHA is requesting special purpose, emergency or homeownership modernization in the current FFY. For each project proposed for Comprehensive Modernization, the comprehensive assessment shall include: the current physical condition and the physical improvements necessary to meet the standards (see § 868.4(a)); the improvements needed to upgrade the management and operation so that decent, safe and sanitary living conditions will be provided; and an identification of management needs related to items set forth in § 868.4(b)(2).

(3) Reviewing the other points to be covered during the Joint Review as prescribed by HUD.

(Approved by the OMB under OMB control number 2502-0208.)

(f) *Joint Review.* The PHA and the HUD office shall conduct an on-site review to discuss the proposed modernization program, as set forth in the Preliminary Application and the detailed comprehensive assessment, and reach tentative agreement on PHA needs. The Joint Review shall include an on-site inspection of the property and resolution of the relevant issues as prescribed by HUD.

(g) *Comprehensive Modernization approach.* The proposed Comprehensive Modernization shall be funded in one stage, unless the HUD office determines, based upon the criteria set forth in paragraph (g)(2) of this section, that it shall be funded in two stages.

(1) *One-stage funding.* In general, Comprehensive Modernization will be funded in one stage. Under one-stage funding, the total amount of modernization funds for all required physical and management improvements at the project shall be approved at one time, out of funds for a single FFY, under one Final Application. The PHA and the HUD office shall agree on the length of the implementation period that is appropriate for the particular modernization program. The entire modernization program for the project shall generally be completed within a period of not more than three years. However, if it is shown to the satisfaction of the HUD office that the scope of the improvements is unusually extensive or the nature of the improvements necessitates a longer implementation period, a longer implementation period not to exceed five years may be approved. See § 868.4(b) on the implementation period of management improvements.

(2) *Two-stage funding.* On an exception basis, Comprehensive Modernization will be funded in two stages. Under two-stage funding, the total amount of the modernization funds for all required physical and management improvements at the project shall be approved at two different times.

(i) *Mandatory.* Where the HUD office determines that the PHA lacks modernization capability, as defined in § 868.3, the HUD office shall fund Comprehensive Modernization in two stages. At the first stage, approval is limited to funds for architectural/engineering work and a portion of the management improvements.

(ii) *Optional.* Where the HUD office determines that the PHA lacks management capability, as defined in § 868.3, or that the magnitude of the total funds required for Comprehensive Modernization is such that one-stage funding is precluded by the HUD office's allocation, the HUD office may fund Comprehensive Modernization in two stages. At the first stage, approval may include funds for architectural/engineering work and a portion of the physical and management improvements.

(iii) *First stage.* The first stage shall be approved out of funds for single FFY, under one Final Application. The Final Application shall address all required improvements at the project, except that the modernization plan under paragraph (i)(2) of this section shall pertain only to work items to be completed during the first stage. When approving the first stage, the HUD office will indicate the approximate balance of the modernization funds to be approved for the project at the second stage and its intent to approve that balance, subject to the availability of future funds, satisfactory progress by the PHA in obligating first stage funds, PHA submission of additional documents and PHA compliance with HUD regulatory and statutory requirements.

(iv) *Second stage.* Where the PHA is requesting funding for the second stage of a two-stage Comprehensive Modernization at a project, the HUD office will determine whether the PHA has met the conditions stated in paragraph (g)(2)(iii) of this section. If not, the HUD office may not approve the second stage for funding at this time. The PHA submission for the second stage is limited only to the items as deemed necessary by HUD.

(v) *Implementation period.* The entire modernization program for the project shall be completed within a maximum five-year period. The PHA and the HUD office shall agree on the length of the implementation period of each stage. The first stage shall be completed within a maximum two-year period and the second stage within a maximum three-year period.

(h) *HUD preliminary funding decisions.* After all of the Joint Reviews, the HUD office will determine whether the PHA will be invited to submit the Final Application for the identified project(s) by considering whether the PHA has adequately addressed all the relevant issues, as determined by HUD, and giving preference to PHA's which:

(1) Request assistance for projects having conditions that threaten tenant health or safety, including elimination of lead-based paint hazards in public

housing family units built before 1950, or a significant number of vacant, substandard units;

(2) Have demonstrated a capability of carrying out the activities proposed in the plan and approved by HUD; and

(3) Demonstrate that the modernization will result in the greatest cost savings, except for physical improvements of an emergency nature affecting the life, health and safety of tenants or related to fire safety.

(i) *Final application.* Upon notification from HUD, the PHA shall submit to the HUD office a Final Application which shall contain:

(1) For each project, an identification of and an estimate of the total costs of replacement of the equipment, systems or structural elements which would normally be replaced (assuming routine and timely maintenance is performed) over the remaining period of the ACC or during the 30-year period beginning on the date of submission of the Final Application, whichever period is longer. This estimate shall include an estimate of such costs accrued for the period which ends upon the date on which the Final Application is made and an estimate of the costs which will accrue during each 12-month period subsequent to the Final Application;

(2) A comprehensive assessment of physical and management improvement needs, described in paragraph (e)(2) of this section, and a plan for making the improvements and replacements and for meeting the needs. The plan shall include: (i) A schedule of actions to be completed over a period of not greater than five years from the date of approval of the application, within each 12-month period covered by the plan, and which are necessary to make the physical improvements and to upgrade the management and operation (see paragraph (g)(1) of this section); (ii) The estimated cost of each action; (iii) A project operating budget for each 12-month period covered by the plan, excluding modernization costs; and (iv) an estimate of the financial resources to be available from all sources and the amounts of modernization funds to be requested for each 12-month period covered by the plan.

(3) An organization and staffing plan, stating the proposed organization, staffing and inspection of the modernization program.

(4) A PHA report on compliance by the local governing body with the terms of the Cooperation Agreement, or as embodied by Article VIII of the Tribal Ordinance as applicable for certain IHAs, and any additional services or facilities that the PHA plans to request from the local governing body.

(5) A civil rights compliance certification, in a form prescribed by HUD.

(6) A resolution by the PHA Board of Commissioners, approving the Final Application and certifying that:

(i) The PHA will comply with all policies, procedures and requirements prescribed by HUD for the modernization, including implementation of the modernization in a timely, efficient and economical manner;

(ii) The estimated costs of the modernization program cannot be funded from current operating funds;

(iii) The proposed physical work meets the Modernization Standards;

(iv) The PHA has adopted the goal of awarding a specified percentage of the dollar value of the total of the modernization contracts, to be awarded during the subsequent FFY, to minority business enterprises;

(v) The PHA has complied with tenant/homebuyer participation requirements under § 868.7 and § 868.8;

(vi) The PHA has furnished a copy of the flood insurance policy to HUD or determined that flood insurance is not required under § 868.9(d);

(vii) The PHA will comply (where applicable) with requirements for the physically handicapped under § 868.9(f); and

(viii) Where the proposed modernization involves the temporary or permanent rehousing of tenants, the PHA will ensure nondiscrimination in the selection of tenants to be rehoused, determination of which tenants require temporary and permanent rehousing, assignment of tenants within the PHA, and provision of assistance to tenants being rehoused,

(7) *Special provisions for excepted categories.*—(i) *Special purpose modernization.* For a project under special purpose modernization, the PHA shall limit the items required in paragraph (i)(2)(i) of this section to only those special purpose work items.

(ii) *Emergency modernization.* For a project under emergency modernization, the PHA shall omit from the Final Application the items required in paragraphs (i)(1), (i)(2) (iii) and (iv), and (i)(3) and (4) of this section and limit the items required in paragraph (i)(2)(i) of this section to only those emergency work items.

(iii) *Homeownership modernization.* For a project under homeownership modernization, the PHA shall omit from the Final Application the items required in paragraphs (i)(1) and (i)(2) (iii) and (iv) of this section and limit the items required in paragraph (i)(2)(i) of this

section to only those homeownership work items. The PHA shall include in the Final Application a listing of the units to be included in the modernization program and the estimated cost attributed to each home.

(Approved by the OMB under OMB control number 2502-0208.)

(j) *ACC amendment.* After HUD approval of the Final Application, the PHA shall enter into an ACC amendment to obtain modernization funds.

§ 868.6 Modernization Project.

(a) For purposes of financing modernization, each modernization program approved for PHA shall be treated as a separate Modernization Project. The Modernization Project may include improvements to one or more projects. Improvements to a single project may be included in more than one Modernization Project.

(b) HUD and the PHA shall enter into ACC amendment, for each Modernization Project. The ACC amendment shall provide for the payment of annual contributions sufficient to amortize the modernization cost over a period of no more than 20 years, and shall require low-income use of the housing for not less than 20 years (subject to sale of homeownership units in accordance with the terms of the ACC).

§ 868.7 Tenant participation.

For a rental project only, before submission of the Preliminary Application, the PHA shall consult with the tenants regarding its intent to submit an application for modernization funds. Before the Joint Review, the PHA shall notify the tenants of the project to be modernized and the tenant organization, if any, of the proposed modernization program, afford tenants a reasonable opportunity to present their views on the proposed program and alternatives to it, and give full and serious consideration to tenant recommendations. At the Joint Review, the PHA shall provide the tenants and HUD with a copy of and an evaluation of tenant recommendations, indicating the reasons for PHA acceptance or rejection, consistent with HUD requirements and the PHA's own determination of efficiency, economy and need. The PHA also shall provide a copy of this evaluation to the tenants and the tenant organization, if any. After HUD approval of the modernization program, the PHA shall inform the tenants and the tenant organization, if any, of the approved work items. The provisions of this section do not apply to proposed work

items of an emergency nature, affecting the life, health and safety of tenants. However, the PHA shall inform tenants of approved emergency work items.

(Approved by the OMB under OMB control number 2502-0218.)

§ 868.8 Homebuyer participation.

(a) For a homeownership project only, before the Joint Review, the PHA shall discuss the modernization program with the homebuyer families of the project to be modernized and advise them of the effect of the modernization on the terms of the Homebuyer Agreements. The PHA shall afford the homebuyer families a reasonable opportunity to present their views on the proposed program and give full and serious consideration to their recommendations consistent with HUD requirements and the PHA's own determination of efficiency, economy and need.

(b) The PHA shall inform each homebuyer family that:

(1) To participate, it must be in substantial compliance with the terms of its Homebuyer Agreement;

(2) It will have an opportunity to express its views and preferences with respect to the modernization of its home;

(3) The purchase price and the amortization period will be increased as provided in § 868.10;

(4) It will have an opportunity to participate in the final inspection of the work to determine completion in accordance with the requirements; and

(5) Participation in the program is optional.

(c) The PHA shall provide each homebuyer family with a copy of the PHA's evaluation of its recommendations, the tentative decisions reached on the modernization program to be submitted to the HUD office, the estimated cost of the proposed modernization program, and the amount of this cost to be attributed to its home.

(d) If the homebuyer family decides to participate in the modernization program with respect to any of the proposed work items, it must agree in writing that its Homebuyer Agreement will be amended upon approval of the Final Application to provide that, as result of the amount of modernization cost attributed to its home, the purchase price and the amortization period will be increased as provided in § 868.10.

(e) Any homebuyer family may decline to participate without risk to its homebuyer status.

(f) Before submission of the Final Application, the PHA shall obtain a signed agreement from each participating homebuyer family that it will amend its Homebuyer Agreement

upon approval of the Final Application. The PHA shall retain copies of the signed agreements and the amended Homebuyer Agreements in its files for inspection by the HUD office.

(g) The provisions of paragraphs (b) through (f) of this section do not apply where modernization work is limited to correction of development deficiencies.

(Approved by the OMB under OMB control number 2502-0218.)

§ 868.9 Other program requirements.

The PHA shall comply with the following program requirements for a HUD allocation of modernization funds:

(a) *Civil rights compliance.* In the case of PHAs other than Indian Housing Authorities (IHAs), the PHA shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601-3619), Executive Orders 11063, 11246 and 12138 (Women's Business Enterprise), Section 3 of the HUD Act of 1968 (12 U.S.C. 1701u), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). (For IHAs, see 24 CFR 805.105, Applicability of civil rights statutes, and 24 CFR 805.106, Preferences, opportunities, and nondiscrimination in employment and contracting.)

(b) *Minority and women's business or Indian enterprise opportunity.* In the case of PHAs other than IHAs, in conformance with Executive Order 11625, the PHA shall take every action to meet Departmental goals for awarding modernization contracts to minority business enterprises. For IHAs, see 24 CFR 805.106(a) regarding preference in the award of modernization contracts to Indian organizations and Indian-owned economic enterprises. Both PHAs and IHAs shall take appropriate affirmative action to assist women's business enterprises.

(c) *Environment and historic preservation.* The PHA's Final Application is subject to any applicable requirements under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4332 et seq.), the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.), Executive Order 11593 on Protection and Enhancement of the Cultural Environment (including the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800), the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Water Pollution

Control Act (33 U.S.C. 1251 et seq.), Executive Orders 11988 and 11990 (Floodplain Management and Protection of Wetlands), and HUD environmental regulations (24 CFR Part 50).

(d) *Flood insurance.* The PHA shall comply with the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.).

(e) *Lead-based paint poisoning prevention.* The PHA shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) and HUD implementing regulations (24 CFR Part 35).

(f) *Accessibility for physically handicapped.* The PHA shall comply with the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151) and HUD implementing regulations (24 CFR Part 40).

(g) *Energy conservation.* The PHA shall comply with 24 CFR Part 865, Subpart C, regarding the conduct of an energy audit and the undertaking of cost-effective energy conservation measures, before HUD approval of Comprehensive Modernization or special purpose modernization for a project. The cost of performing an energy audit is an eligible modernization cost.

(h) *Wage rates—(1) HUD-determined wage rates.* Under Section 12 of the Act, the PHA and its contractors shall pay not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State, tribal, or local law) by the Secretary, to all laborers and mechanics employed by the PHA or its contractors in carrying out major repairs as defined in § 868.3.

(2) *Davis-Bacon wage rates.* Under section 12 of the Act, the PHA and its contractors shall pay not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor, under the Davis-Bacon Act (42 U.S.C. 276a et seq.), to all laborers and mechanics employed by the PHA or its contractors for modernization work or contracts over \$2,000, except major repairs as defined in § 868.3.

(3) *Technical wage rates.* The PHA and its contractors shall pay HUD-determined prevailing wage rates to all architects, technical engineers, draftsmen and technicians employed in the modernization of a project.

(i) *Insurance.* The PHA shall carry insurance, as prescribed by HUD, to cover the additional exposures created by the modernization activities and reflect the increased value of the buildings after modernization.

§ 868.10 Special requirements for homeownership projects.

(a) Promptly after HUD approval of the Final Application, each homebuyer family shall execute an amendment to its Homebuyer Agreement, reflecting an increase in the purchase price of its home and an extension of the amortization period in accordance with paragraphs (b) and (c) of this section, except where the modernization work is limited to the correction of development deficiencies.

(b) For Turnkey III projects and for Mutual Help projects placed under ACC from March 9, 1976 or converted in accordance with 24 CFR 805.428:

(1) The amount of estimated modernization cost attributable to the home, as shown in the HUD-approved Final Application, shall be added to the homebuyer's purchase price as initially determined (under 24 CFR 804.113(a) or 804.115(b) for Turnkey III projects or under 24 CFR 805.422 (b) or (c) for Mutual Help projects).

(2) The period of the homebuyer's current purchase price schedule shall be extended by the same percentage as the percentage of increase in the homebuyer's purchase price. The new purchase price schedule shall:

(i) Show monthly amortization of the new purchase price over a period commencing on the same day as the original purchase price schedule and terminating at the end of the extended period; and

(ii) Be computed on the basis of the same interest rate as used for the current purchase price schedule.

(3) If a modernization program is approved for a project after one or more earlier modernization programs for the same project, the total amount of modernization cost attributable to the home under the prior modernization program(s) shall be included as part of the homebuyer's initial purchase price in applying the provisions of paragraphs (b) (1) and (2) of this section.

(c) For Mutual Help projects placed under ACC before March 9, 1976, and not converted in accordance with 24 CFR 805.428 and for Turnkey III projects that do not have purchase price schedules:

(1) These projects do not involve purchase price schedules for amortization of the homebuyer's purchase price over a fixed period of time because the homebuyer's purchase price in these projects is based on the unamortized balance of the portion of the project's development debt attributable to the home. Consequently, it is necessary to establish a separate schedule for the amortization of the estimated modernization cost

attributable to the home, as shown by the HUD-approved Final Application.

(2) The PHA shall furnish to the homebuyer a schedule showing monthly amortization of the estimated modernization cost attributable to the home, at the Minimum Loan Interest Rate specified in the ACC for the Modernization Project, over a period commencing on the first day of the month after the date of original occupancy of the home by the homebuyer and terminating at the end of the period determined as follows:

(i) Divide the amount of the estimated modernization cost attributable to the home (including the total amount of modernization cost attributable to the home under prior modernization programs, if any) by the amount of the current HUD-approved estimated replacement cost of the home.

(ii) Multiply this amount by 25, round the result to the next higher number and add that number to 25. This is the number of years to be used as the period for the modernization amortization schedule.

(iii) The purchase price for the unit shall be the sum of (A) the balance of the debt attributable to the home and (B) the amount remaining on the modernization schedule at the time of settlement.

(3) The calculation provided in paragraph (c)(2) of this section shall apply retroactively to modernization programs approved from FFY 1980 funds. Therefore, the PHA shall recalculate the homebuyer's amortization schedule to reflect the provisions of paragraph (c)(2) of this section.

§ 868.11 Special requirements for Section 23 Leased Housing Bond-Financed projects.

A Section 23 Leased Housing Bond-Financed project is eligible for modernization only if HUD determines that the project has met the following conditions:

(a) The project was financed by the issuance of bonds;

(b) Clear title to the project will be conveyed to or vested in the PHA at the end of the Section 23 lease term;

(c) There are no legal obstacles affecting the PHA's use of the property as public housing during the 20-year amortization period of the modernization;

(d) After completion of the modernization, the project will have a remaining useful life of at least 20 years and it is in the financial interest of the Federal Government to improve the project; and

(e) The project is covered by a Cooperation Agreement between the PHA and local governing body during the 20-year amortization period of the modernization.

§ 868.12 Contracting requirements.

(a) *Compliance with State, tribal, and local law and Federal requirements.* The PHA shall comply with State, tribal and local laws and Federal requirements applicable to bidding and contract award.

(b) *Competitive bidding requirements.* For each construction or equipment contract over \$10,000, the PHA shall conduct competitive bidding, except for procurement under the HUD Consolidated Supply Program.

(c) *Bonding requirements.* For all construction or equipment contracts of \$10,000 or more, the contractor shall furnish a performance and payment bond for 100 percent of the contract price or, as may be required by law, separate performance and payment bonds, each for 50 percent or more of the contract price, or a 20 percent cash escrow or a 25 percent letter of credit.

(d) *PHA agreement with architect/engineer.* The PHA shall obtain architectural/engineering services through the competitive negotiation process, except where: (1) FFY 1981 or subsequent year funds are being used to finance additional services under an existing contract; or (2) FFY 1980 or prior year funds are being used to finance a contract not yet executed, but for which the PHA has initiated discussions with an architect/engineer before the effective date of this rule. The PHA shall comply with HUD requirements either to submit for HUD approval the contract before execution or to certify that the scope of work is consistent with any agreements reached with HUD, that the fee is appropriate and does not exceed the HUD-approved budget amount, and that, if applicable, the competitive negotiation process was used.

(Under section 13(b) of OMB Circular A-40, OMB has waived the requirement that the information collection requirement contained in this paragraph must be reviewed and assigned an OMB control number.)

(e) *Construction and bid documents.* The PHA shall comply with HUD requirements either to submit for HUD approval complete construction and bid documents before inviting bids or to certify to receipt of the required architect's/engineer's certification, that the construction documents accurately reflect HUD-approved work, and that the bid documents are complete and include all mandatory items.

(Approved by the OMB under OMB control numbers 2502-0157 and 2502-0216.)

(f) *Contract award.* The PHA shall obtain HUD approval of the proposed award of modernization construction and equipment contracts if the bid amount exceeds the HUD-approved budget amount or the PHA receives a single bid. In all other instances, the PHA shall comply with HUD requirements either to submit the proposed award for HUD approval or to make the award without HUD approval after the PHA has certified that the bidding procedures and award were conducted in compliance with State, tribal or local laws and Federal requirements, that the award does not exceed the approved budget amount and is not being made on the basis of a single bid, and that HUD clearance has been obtained for the award under previous participation procedures, including absence from the HUD Consolidated List of Debarred, Suspended or Ineligible Contractors and Grantees.

(Approved by the OMB under OMB control number 2502-0157.)

(g) *Change orders.* Except in an emergency endangering life or property, the PHA shall comply with HUD requirements either to submit the proposed contract changes for HUD approval or to certify that the proposed work is not within the scope of the contract, that the proposed work cannot be postponed and is necessary and economical, and that the additional costs are within the latest HUD-approved budget or otherwise approved by HUD.

(Approved by the OMB under OMB control number 2502-0157.)

(h) *Construction requirements.* The PHA shall submit to the HUD office periodic progress reports and shall submit all contract settlement documents for HUD approval.

(Approved by the OMB under OMB control number 2502-0157.)

(i) *Management improvement contracts.* The PHA shall obtain consultant services through the competitive negotiation process. The PHA shall submit both proposals and contracts for management improvements, as well as contract changes, for prior HUD approval.

(Approved by the OMB under OMB control number 2502-0219.)

§ 868.13 Modernization financing.

To request modernization funds against the approved modernization program, the PHA shall:

(a) Consult informally with the HUD office as to the amount of modernization funds needed for the time period in question, the immediacy of need, and the method of financing. Direct advances shall be approved only where the PHA has an immediate cash need that cannot be delayed until the next possible note sale and if the total amount of the PHA's outstanding direct advances, when added to the amount of direct advances currently requested, does not exceed \$200,000.

(b) Submit a request to the HUD office for only the amount of modernization funds needed for the time period in question and support the request with a written justification, in a form prescribed by HUD. The amount of financial assistance made available for any one fiscal year may not exceed the sum of the amounts determined necessary by HUD to:

(1) Undertake the actions specified for the year in the schedule submitted under § 868.5(i)(2);

(2) Fund the replacement costs identified under § 868.5(i)(1), which have accrued for the period ending at the beginning of such year, but have not been previously paid;

(3) Reimburse the PHA for the cost of developing the plan described in § 868.5(i)(2), less any amount provided the PHA with respect to such year under paragraph (b)(4) of this section, subject to the limitation set forth in § 868.4(d); and

(4) Enable a financially distressed PHA, as defined in § 868.3, to develop a plan, subject to the limitation set forth in § 868.4(d).

(Approved by the OMB under OMB control number 2502-0188.)

(c) Submit the latest required progress reports under § 868.14, unless the first required report is not yet due.

(Approved by the OMB under OMB control numbers 2502-0164 and 2502-0219.)

(d) No financial assistance shall be made available to a PHA for any year subsequent to the first year unless HUD determines that the PHA has made substantial efforts to meet the objectives for the preceding year under the plan described in § 868.5(i)(2).

§ 868.14 Progress reporting.

For each quarter until completion of the modernization program, the PHA shall submit, in a form prescribed by HUD, to the HUD office:

(a) A report on modernization fund expenditures; and

(Approved by the OMB under OMB control numbers 2502-0164 and 2502-0219.)

(b) A narrative report on management improvement progress, where applicable.

(Approved by the OMB under OMB control number 2502-0219.)

§ 868.15 Budget revisions.

The PHA shall not incur any modernization cost in excess of the total approved budget. The PHA shall submit a revision of the budget, in a form prescribed by HUD, for prior HUD approval if the PHA plans (within the total approved modernization budget) to:

- (a) Delete or substantially revise approved work items;
- (b) Add new work items; or
- (c) Incur modernization costs in excess of the approved budget amount for:

- (1) A work item; or
- (2) Any project.

(Approved by the OMB under OMB control number 2502-0164 for modernization undertaken with pre-FFY 1982 funds and OMB control number 2502-0208 for modernization undertaken with FFY 1982 and subsequent year funds.)

§ 868.16 On-site inspections.

The PHA shall provide, by contract or otherwise, adequate and competent supervisory and inspection personnel during modernization, whether work is performed by contract or force account labor and with or without the services of an architect/engineer, to assure work quality and progress.

§ 868.17 Fiscal closeout of a modernization program.

Upon completion of a modernization program, the PHA shall submit the actual modernization cost certificate, in a form prescribed by HUD, to the HUD office for review, audit verification and approval. The audit shall follow the guidelines prescribed by OMB Circular A-102, Attachment P-Audit Requirements. If the audited modernization cost certificate indicates that excess funds have been approved, the PHA shall dispose of the excess funds as directed by HUD. If the audited modernization cost certificate discloses unauthorized expenditures, the PHA shall take such corrective actions as HUD may direct.

(Approved by the OMB under OMB control number 2502-0219.)

§ 868.18 Modernization and Energy Conservation Standards.

(a) All improvements funded under this Part, which may include alterations, betterments, additions, replacements or major repairs, shall meet the HUD Modernization Standards, described in paragraph (c) of this section and established to provide decent, safe and sanitary living conditions in PHA-owned public housing projects, and the HUD Energy Conservation Standards for cost-effective energy conserving improvement in such projects, described in paragraph (d) of this section.

(b) The Modernization Standards and the Energy Conservation Standards are being published separately.

(c) The Modernization Standards prescribe standards which will provide decent, safe and sanitary living conditions in public housing, including corrections of violations of basic health and safety codes, and address all deficiencies, including those related to deferred maintenance, in order to meet the intent of HUD's Minimum Property Standards as they could reasonably be applied to existing housing. In addition, these standards cover improvements relating to site and building security. The Modernization Standards are contained in HUD Handbook 7485.2, Public Housing Modernization Standards, and other documents cited therein.

(d) The Energy Conservation Standards prescribe standards for the installation of cost-effective energy conserving improvements, including solar energy systems. The Energy Conservation Standards provide for the conducting of energy audits, including cost-benefit analyses of energy saving opportunities, in order to determine which measures will be cost effective in conserving energy. The Energy Conservation Standards will be contained in HUD Handbook 7485.3, Public Housing Energy Conservation, and other documents cited therein.

Dated: May 18, 1982.

Philip Abrams,
General Deputy Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

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Federal Register

Friday
May 21, 1982

Part V

Department of Health and Human Services

Food and Drug Administration

Alcohol Drug Products for Topical
Antimicrobial Over-the-Counter Human
Use; Establishment of a Monograph; and
Reopening of Administrative Record

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 333

[Docket No. 75N-0183]

Alcohol Drug Products for Topical Antimicrobial Over-the-Counter Human Use; Establishment of a Monograph; and Reopening of Administrative Record

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking and reopening of administrative record.

SUMMARY: The Food and Drug Administration (FDA) is issuing an advance notice of proposed rulemaking that would establish conditions under which over-the-counter (OTC) alcohol drug products for topical antimicrobial use are generally recognized as safe and effective and not misbranded. This notice relates to the development of monograph for topical antimicrobial drug products in general, which is part of the ongoing review of OTC drug products conducted by FDA. This notice also reopens the administrative record for OTC topical antimicrobial drug products to allow for consideration of recommendations on alcohol drug products that have been received from the Advisory Review Panel on OTC Miscellaneous External Drug Products.

DATES: Written comments by August 19, 1982 and reply comments by September 20, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on October 6, 1980 a report on OTC alcohol drug products for topical antimicrobial use from the Advisory Review Panel on OTC Miscellaneous External Drug Products. FDA regulations (21 CFR 330.10(a)(6)) provide that the agency issue in the *Federal Register* a proposed rule containing (1) the monograph recommended by the Panel, which establishes conditions under which OTC alcohol drug products for topical antimicrobial use are generally recognized as safe and effective and not

misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

Because alcohol ingredients are marketed in OTC drug products for topical antimicrobial use, FDA has determined that the Miscellaneous External Panel's recommendations on OTC alcohol drug products should be included as part of the proposed rulemaking for OTC topical antimicrobial drug products. Development of this rulemaking has been ongoing for some time.

In the *Federal Register* of September 13, 1974 (39 FR 33103), FDA issued an advance notice of proposed rulemaking to establish the monograph for OTC topical antimicrobial drug products. In the *Federal Register* of January 6, 1978 (43 FR 1210), FDA issued a tentative final monograph (notice of proposed rulemaking) for OTC topical antimicrobial drug products. In the *Federal Register* of March 9, 1979 (44 FR 13041) FDA reopened the administrative record and announced its intent to publish an updated (amended) tentative final monograph (amended notice of proposed rulemaking) for OTC topical antimicrobial drug products. FDA advises that it is again reopening the administrative record for OTC topical antimicrobial drug products only as it pertains to alcohol drug products in order to allow for the consideration of the Miscellaneous External Panel's recommendations on alcohol drug products. An amended tentative final monograph (amended notice of proposed rulemaking) will be published in a future issue of the *Federal Register*. At that time, comments received on this advance notice of proposed rulemaking concerning alcohol drug products will be addressed. Also, the proceeding to develop a monograph for alcohol drug products will be merged with the general proceeding to establish a monograph for OTC topical antimicrobial drug products. Because the Panel recommended Category I conditions for alcohol drug products, three new sections which would amend Part 333 are being included in this advance notice of proposed rulemaking (§§ 333.3(k), 333.55, and 333.98).

The unaltered conclusions and recommendations of the Panel relating to OTC alcohol drug products for topical antimicrobial use are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA, and the agency has not yet fully evaluated the Panel's recommendations. The Panel's findings appear in this document to obtain public comment before the agency reaches any decision on the Panel's recommendations. This document represents the best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on any particular matter contained in it.

After reviewing all comments submitted in response to this document, FDA will issue in the *Federal Register* an amended tentative final monograph for OTC topical antimicrobial drug products, including alcohol drug products, as an amended notice of proposed rulemaking. Under the OTC drug review procedures, the agency's position and proposal are first stated in the tentative final monograph, which has the status of a proposed rule. Final agency action occurs in the final monograph, which has the status of a final rule.

The agency's position on OTC topical antimicrobial drug products will be restated when the amended tentative final monograph is published in the *Federal Register*. In that amended notice of proposed rulemaking, the agency also will announce its initial determination whether the proposed rule is a major rule under Executive Order 12291 and will consider the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The present notice is referred to as an advance notice of proposed rulemaking to reflect its actual status and to clarify that the requirements of the Executive Order and the Regulatory Flexibility Act will be considered in the amended notice of proposed rulemaking. At that time FDA also will consider whether the proposed rule has a significant impact on the human environment under 21 CFR Part 25 (proposed in the *Federal Register* of December 11, 1979; 44 FR 71742).

The agency invites public comment regarding any impact that this rulemaking would have on OTC alcohol drug products for topical antimicrobial use. Types of impact may include, but are not limited to, the following: increased costs due to relabeling, repackaging, or reformulating; removal of unsafe or ineffective products from the OTC market; and testing, if any.

Comments regarding the impact of this rulemaking on OTC alcohol drug products for topical antimicrobial use should be accompanied by appropriate documentation. Comments will not be accepted at this time on any portion of the OTC topical antimicrobial rulemaking other than that relating to alcohol drug products.

In accordance with § 330.10(a)(2), the Panel and FDA have held as confidential all information concerning OTC alcohol drug products for topical antimicrobial use submitted for consideration by the Panel. All the submitted information will be put on public display in the Dockets Management Branch, Food and Drug Administration, after June 21, 1982, except to the extent that the person submitting it demonstrates that it falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD-510) (address above).

FDA published in the Federal Register of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler v. Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III because that was the framework in which the Panel conducted its evaluation of the data.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 6 months after the date of

publication of the final monograph in the Federal Register. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions which would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce. Further, any OTC drug products subject to this monograph which are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the Federal Register of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the Federal Register of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients used in OTC miscellaneous external drug products was issued in the Federal Register of November 16, 1973 (38 FR 31697). (In making their categorizations with respect to "active" and "inactive" ingredients, the advisory review panels relied on their expertise and understanding of these terms. FDA has defined "active ingredient" in its current good manufacturing practice regulations (§ 210.3(b)(7), (21 CFR 210.3(b)(7))), as "any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect." An "inactive ingredient" is defined in § 210.3(b)(8) as "any component other than an active ingredient." In the Federal Register of August 27, 1975 (40 FR 38179) a notice supplemented the initial notice with a detailed, but not necessarily all-inclusive, list of ingredients in miscellaneous external drug products to be considered in the OTC drug review. The list, which included "alcohol" active ingredients, was provided to give guidance on the

kinds of active ingredients for which data should be submitted. The notices of November 16, 1973, and August 27, 1975, informed OTC drug product manufacturers of their opportunity to submit data to the review at that time and of the applicability of the monographs from the OTC review to all OTC drug products.

Under § 330.10(a) (1) and (5), the Commissioner of Food and Drugs appointed the following Panel to review the information submitted and to prepare a report on the safety, effectiveness, and labeling of the active ingredients in these OTC miscellaneous external drug products:

William E. Lotterhos, M.D., Chairman
Rose Dagirmanjian, Ph. D.
Vincent J. Derbes, M.D. (resigned July 1976)

George C. Cypress, M.D. (resigned November 1978)

Yelva L. Lynfield, M.D. (appointed October 1977)

Harry E. Morton, Sc. D.

Marianne N. O'Donoghue, M.D.

Chester L. Rossi, D.P.M.

J. Robert Hewson, M.D. (appointed September 1978)

Representatives of consumer and industry interests served as nonvoting members of the Panel. Marvin M. Lipman, M.D., of Consumers Union served as the consumer liaison. Gavin Hildick-Smith, M.D., served as industry liaison from January until August 1975, followed by Bruce Semple, M.D., until February 1978. Both were nominated by the Proprietary Association. Saul A. Bell, Pharm. D., nominated by the Cosmetic, Toiletry, and Fragrance Association, also served as an industry liaison since June 1975.

Two nonvoting consultants, Albert A. Belmonte, Ph. D., and Jon J. Tanja, R.Ph., M.S., have provided assistance to the Panel since February 1977.

The following FDA employees assisted the Panel: John M. Davitt served as Executive Secretary until August 1977, followed by Arthur Auer until September 1978, followed by John T. McElroy, J.D., Thomas D. DeCillis, R.Ph., Served as Panel Administrator until April 1976, followed by Michael D. Kennedy until January 1978, followed by John T. McElroy, J.D., Joseph Hussion, R.Ph., served as Drug Information Analyst until April 1976, followed by Victor H. Lindmark, Pharm. D., until March 1978, followed by Thomas J. McGinnis, R.Ph.

The Advisory Review Panel on OTC Miscellaneous External Drug Products was charged with the review of many categories of drugs. Due to the large

number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents in this document its conclusions and recommendations on OTC alcohol drug products for topical antimicrobial use. The Panel's findings on other categories of miscellaneous external drug products are being published periodically in the *Federal Register*.

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings which dealt with the topic in this document were held on June 27 and 28, August 15 and 16, November 9 and 10, 1975; February 20 and 21, April 2 and 3, May 16 and 17, June 11 and 12, October 8 and 9, 1976; September 30 and October 1, 1977; January 14 and 15, May 18 and 19, 1979; April 20 and 21, June 22 and 23, August 3 and 4, and October 5 and 6, 1980.

The minutes of the Panel meetings are on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above).

No individuals requested to appear before the Panel to discuss alcohol drug products for topical antimicrobial use, nor was any individual requested to appear by the Panel.

The Panel has thoroughly reviewed the literature and data submissions, and has considered all pertinent information submitted through October 5, 1980 in arriving at its conclusions and recommendations.

In accordance with the OTC drug review regulations set forth in § 330.10, the Panel reviewed OTC alcohol drug products for topical antimicrobial use with respect to the following three categories:

Category I. Conditions under which OTC alcohol drug products for topical antimicrobial use are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC alcohol drug products for topical antimicrobial use not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

The Panel reviewed four alcohol active ingredients for topical antimicrobial use. Two ingredients were placed in Category I and two ingredients were placed in Category II.

I. Submission of Data and Information

In an attempt to make this review as extensive as possible and to aid

manufacturers and other interested persons, the agency compiled a list of ingredients recognized, either through historical use or use in marketed products, as alcohol active ingredients. Seven ingredients were identified as follows: absolute alcohol 70 percent, denatured alcohol, ethyl alcohol 92 percent, isopropyl alcohol 70 percent, isopropyl alcohol 90 percent, isopropyl alcohol 91 percent, and isopropyl alcohol with ethylene oxide. Notices were published in the *Federal Register* of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179) requesting the submission of data and information on these ingredients or any other ingredients used in OTC alcohol drug products.

A. Submissions

Pursuant to the above notices, the following submissions were received:

| Firms | Marketed products |
|--|---|
| Bowman Pharmaceuticals, Inc., Canton, OH 44702. | Isopropyl Alcohol, 91 percent; Isopropyl Alcohol, 70 percent. |
| Eli Lilly and Co., Indianapolis, IN 46206. | Isopropyl Alcohol-Lilly 91 Percent. |
| Holland Rantos Co., Inc., Piscataway, NJ 08854. | Steri-Wipe/Alcohol Swab. |
| Cramer Products, Inc., Gardner, KS 66030. | Fung-O Spray, Iso-Quin, Nitrofan. |
| Marion Health and Safety, Inc., Rockford, IL 61101. | 70/10 Isopropanol Sepps, 70 percent Isopropanol. |
| Parke Davis & Co., Detroit, MI 48232. | Lavacol. |
| Sea Breeze Laboratories, Inc., Pittsburgh, PA 15244. | Sea Breeze. |
| Vestal Laboratories, Saint Louis, MO 63100. | Alcare. |
| Whitehall Laboratories, Inc., New York, NY 10017. | Anbesol. |

In addition, Holland Rantos Co., Inc. made a related submission on ethylene oxide.

B. Ingredients Reviewed by the Panel

1. Labeled ingredients contained in marketed products submitted to the Panel.

Alcohol 30 percent
Alcohol 43 percent
Alcohol 50 percent
Alcohol 70 percent
Benzyl alcohol 3 percent
Ethyl alcohol 54 percent
Ethyl alcohol 70 percent
Isopropanol 91 percent
Isopropyl alcohol 7.5 percent
Isopropyl alcohol 12.5 percent
Isopropyl alcohol 20 percent
Isopropyl alcohol 24 percent
Isopropyl alcohol 31 percent
Isopropyl alcohol 35 percent
Isopropyl alcohol 50 percent
Isopropyl alcohol 70 percent

2. Other ingredients reviewed by the Panel.

Absolute alcohol 70 percent
Cetyl alcohol

Chlorobutanol
Denatured alcohol
Ethyl alcohol 92 percent
Ethylene oxide
Isopropyl alcohol 90 percent
Isopropyl alcohol 91 percent
isopropyl alcohol with ethylene oxide
Stearyl alcohol

C. Classification of Ingredients

The Panel is aware that the "United States Pharmacopeia" (USP) contains standards of quality and purity for several specific concentrations of the alcohols discussed in this document (Ref. 1); however, the Panel has concluded, based on the available data, that concentrations other than those specified in the USP can be generally recognized as safe and effective for the OTC market.

1. Active ingredients.

Benzyl alcohol (benzyl alcohol 3 percent)
Chlorobutanol
Ethyl alcohol (absolute alcohol 70 percent, alcohol 30 percent, alcohol 43 percent, alcohol 50 percent, alcohol 70 percent, denatured alcohol, ethyl alcohol 54 percent, ethyl alcohol 70 percent, and ethyl alcohol 92 percent)
Isopropyl alcohol (isopropanol 91 percent, isopropyl alcohol 7.5 percent, isopropyl alcohol 12.5 percent, isopropyl alcohol 20 percent, isopropyl alcohol 24 percent, isopropyl alcohol 31 percent, isopropyl alcohol 35 percent, isopropyl alcohol 50 percent, isopropyl alcohol 70 percent, isopropyl alcohol 90 percent, and isopropyl alcohol 91 percent)

2. Inactive ingredients.

Cetyl alcohol
Ethylene oxide
Stearyl alcohol

Reference

(1) "United States Pharmacopeia," 20th Revision, United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 18 and 428, 1980.

D. Referenced OTC Volumes

The "OTC Volumes" cited throughout this document include submissions made by interested persons in response to the call-for-data notices published in the *Federal Register* of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179). All of the information included in these volumes, except for those deletions which are made in accordance with confidentiality provisions set forth in § 330.10(a)(2), will be put on public display after June 21, 1982, in the Dockets Management Branch (HFA-305), Food and Drug

Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

II. General Discussion

The skin, as the protective covering of the body, is frequently subjected to injuries. Microorganisms, both resident and transient, dwell on the surface of the skin, and when the skin is broken, there is always the possibility that harmful microorganisms might spread from the site of injury to the deeper tissues or into the bloodstream, producing a serious infection.

The Panel believes that decreasing the number of microorganisms on the surface of the skin is rational OTC therapy when the skin surface has been broken by a minor cut or scrape, prior to breaking the skin for removal of a splinter, or prior to injection. Ethyl and isopropyl alcohol possess many desirable features as antimicrobial agents in such therapy. The antimicrobial effectiveness of ethyl and isopropyl alcohol is not impressive against fungi and viruses. However, these alcohols are bactericidal; that is, they kill bacteria instead of preventing their growth and immobilizing them, which would be a bacteriostatic action. In addition, these alcohols evaporate readily and remove dirt and grime. Because ethyl and isopropyl alcohols are colorless, they do not stain the skin and thus would not mask inflammation, a warning sign of infection.

The Panel does not recommend that a consumer attempt to use an alcohol to self-treat a deep, extensive wound, or a puncture wound, or attempt to remove a large or deeply embedded splinter. Professional treatment should be sought immediately for such injuries. Alcohols are not recommended in these instances, as they have an irritant effect on damaged, deeply cut tissue (Ref. 1). The irritant action of alcohols is particularly marked on mucosa. The more concentrated the alcohol, the more pronounced are its irritant effects (Ref. 2). The Panel recommends caution in the use of topical alcohols on the mucous membranes in concentrations recommended for antimicrobial use in this document.

References

- (1) Zanowski, P., "Topical Anti-Infective Products," in "Handbook of Nonprescription Drugs," 16th Ed., American Pharmaceutical Association, Washington, p. 371, 1979.
- (2) Ritchie, J. M., "The Aliphatic Alcohols," in "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, The MacMillan Co., New York, pp. 137-146, 1975.

III. Categorization of Data

A. Category I Conditions

These are conditions under which alcohol active ingredients for topical antimicrobial use are generally recognized as safe and effective and are not misbranded.

1. Category I ingredients.

Ethyl alcohol
Isopropyl alcohol

a. *Ethyl alcohol.* Ethyl alcohol (ethanol) has been used in beverages for centuries, and its medicinal, pharmacological, and nutritional properties have been studied extensively. Alcohol is an established name for ethyl alcohol (Ref. 1); however, the Panel will refer to the ingredient as ethyl alcohol in this document in order to distinguish clearly between it and isopropyl alcohol. Ethyl alcohol has an astringent action, precipitating protein; it cools the skin surface by rapid evaporation and, therefore, has been used topically to lower the body temperature; it produces mild redness and a burning sensation when rubbed on the skin and can be used as a counterirritant and rubefacient; and it cleans the skin by its solvent action on oils and greases.

Because of its solvent action, ethyl alcohol is also frequently used in a diluted form as a vehicle for other topical medications. It is capable of altering the stratum corneum (skin surface) and enhancing its permeability, thus facilitating the penetration through the skin of any ingredient that is dissolved in it (Ref. 2). This has been demonstrated with corticosteroids (Ref. 3), salicylic acid (Ref. 4), and iodine (Ref. 5).

Ethyl alcohol rubs have been used in hospitals for many years, and ethyl alcohol is also used frequently on bedridden patients as an adjunct to prevent decubitus ulcers (bedsores) (Ref. 6). However, washing the skin with a 74-percent concentration of ethyl alcohol has been reported to result in the recovery of increased numbers of surface inoculated *Staphylococcus aureus* 5 hours later. The assumption was that an increase in bacteria occurred as a result of removing antibacterial organic matter through the defatting action of the alcohol (Ref. 7).

Ethyl alcohol that is marketed for topical OTC use contains denaturants which are added to make it unsuitable for drinking purposes.

(1) *Safety.* The long use of ethyl alcohol in beverages attests to its

relative nontoxicity when ingested in small quantities. It is readily absorbed from the stomach, small intestine, and colon, and vapors may be absorbed from the lungs. After absorption, ethyl alcohol is fairly uniformly distributed through the tissues and fluids of the body, and 90 to 98 percent is slowly and completely oxidized (Ref. 6).

Regardless of how ethyl alcohol enters the body, its greatest effect is on the central nervous system, and it acts as a primary and continuous depressant (Ref. 6). A concentration of 50 milligrams (mg) ethyl alcohol per 100 milliliters (mL) blood may impair muscular coordination and judgment, and a concentration of 200 mg per 100 mL of blood may produce a state of mild-to-moderate intoxication. A concentration of 300 mg per 100 mL blood will cause severe alcoholic intoxication, and a fatal concentration is estimated to be about 400 mg per 100 mL blood (Ref. 6).

Contact allergy to the lower primary aliphatic alcohols (methyl, ethyl, and propyl) has been reported, but is rare (Refs. 8 and 9). Because ethyl alcohol has been reported to be 7.5 times more toxic to white blood cells in vitro than to staphylococci (Ref. 10), its use is not recommended for open, extensive wounds. The application of antimicrobial concentrations of ethyl alcohol to such wounds might possibly do more harm than good by interfering with the body's basic defense mechanisms. The Panel therefore limits its recommendation for OTC use of this ingredient to application to minor cuts and scrapes, application to the skin prior to breaking it for the removal of small splinters that are not deeply embedded, and for preparation of the skin prior to an injection.

(2) *Effectiveness.* Ethyl alcohol has been shown by in vitro and in vivo tests to kill bacteria. Some interesting early work on the antibacterial effectiveness of ethyl alcohol was conducted by Prombo and Tilden (Ref. 11) and Nungester and Kempf (Ref. 12). The most plausible explanation for this action is the denaturing of proteins by this ingredient. The most concentrated form of ethyl alcohol (100 percent), however, is less bactericidal than mixtures of ethyl alcohol and water. (See tables below.) This is probably because proteins are not denatured so readily in the absence of water as when water is present (Ref. 13).

THE EFFECT OF VARIOUS CONCENTRATIONS OF ETHYL ALCOHOL TEST ORGANISM: PSEUDOMONAS AERUGINOSA (REF. 14)

| Ethyl alcohol | | Exposure of test organism to germicide | | | | | | | | | | | | | | | |
|-------------------|-------------------|--|----|----|----|----|---------|---|---|---|---|----|----|----|----|---|---|
| Percent by volume | Percent by weight | Seconds | | | | | Minutes | | | | | | | | | | |
| | | 10 | 20 | 30 | 40 | 50 | 1 | 2 | 3 | 4 | 5 | 10 | 15 | 25 | 30 | | |
| 100 | 100 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 95 | 92 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 90 | 85 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 80 | 73 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 70 | 62 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 60 | 52 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 50 | 42 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 40 | 33 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 30 | 24 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 25 | 20 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 20 | 16 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| (¹) | (¹) | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |

¹ Dist. water (control).

+ = growth, - = no growth.

THE EFFECT OF VARIOUS CONCENTRATIONS OF ETHYL ALCOHOL TEST ORGANISM: STAPHYLOCOCCUS AUREUS (REF. 14)

| Ethyl alcohol | | Exposure of test organism to germicide | | | | | | | | | | | | | | | | | |
|-------------------|-------------------|--|----|----|----|----|---------|---|---|---|---|-------|----|----|---|----|---|---|---|
| Percent by volume | Percent by weight | Second | | | | | Minutes | | | | | Hours | | | | | | | |
| | | 10 | 20 | 30 | 40 | 50 | 1 | 2 | 3 | 4 | 5 | 10 | 15 | 45 | 1 | 1½ | 2 | 3 | |
| 100 | 100 | + | ± | + | ± | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 95 | 92 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 90 | 85 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 80 | 73 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 70 | 62 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 60 | 52 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 50 | 42 | + | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 40 | 33 | + | + | + | + | + | + | + | + | ± | - | - | - | - | - | - | - | - | - |
| 30 | 24 | - | - | - | - | - | - | - | - | - | + | + | + | + | - | - | - | - | - |
| 25 | 20 | - | - | - | - | - | - | - | - | - | + | + | ± | + | - | - | - | - | - |
| 20 | 16 | - | - | - | - | - | - | - | - | - | + | + | + | + | + | + | + | + | - |
| (¹) | (¹) | - | - | - | - | - | - | - | - | - | + | + | + | + | + | + | + | + | - |

¹ Dist. water (control).

+ = growth, - = no growth.

When exposed to the air, ethyl alcohol (100 percent) takes up water vapor and establishes an equilibrium of 95 percent ethyl alcohol, by volume, and 5 percent water.

Bacteria in a dry environment are more resistant to a bactericidal action than in a moist environment (Refs. 15 and 16). *Mycobacterium tuberculosis*, when suspended in water and in sputum, was killed more rapidly by 95 percent than by 70 percent ethyl alcohol; but in dried sputum smears, 70 percent and 50 percent ethyl alcohol killed the tubercle bacilli more rapidly than the 95-percent solution (Ref. 17).

In general, fungi are more resistant than bacteria to the antimicrobial action of ethyl alcohol. Many fungi are dimorphic, exhibiting tissue (yeast) and culture (spore) phases, with the spore phase being particularly resistant to the action of ethyl alcohol. *Blastomyces dermatitidis*, *Coccidioides immitis*, and *Histoplasma capsulatum* in aerosol containers were sprayed and allowed to dry on the surfaces of such materials as asphalt tile, painted wood, glass, and stainless steel. The sprayed surfaces were then treated with various concentrations of ethyl alcohol, and it was noted that the most rapid killing of

both phases of the three fungi was obtained with concentrations of approximately 70 percent ethyl alcohol; (Ref. 18) with the spore phase requiring the longer exposure period (Ref. 19). The age of the fungal spores was found to be a significant factor in determining the length of time required for different concentrations of ethyl alcohol to effect a killing action. Ten-day-old conidia (spores) of *Penicillium expansum* were killed in 8 minutes of exposure to a 90-percent concentration, whereas 438-day-old conidia of *P. expansum* required 60 minutes of exposure to this concentration. For a 70-percent concentration of ethyl alcohol the time required to kill the 10-day-old conidia of *P. expansum* was 15 minutes, whereas 14 hours were required to kill the 438-day-old conidia of *P. expansum* (Ref. 20).

That ethyl alcohol is less effective against spores than against vegetative forms of bacteria was also demonstrated by immersing pieces of sterile wire in a culture of gas-producing, sporulating anaerobic bacilli and exposing the pieces of wire to 70 percent ethyl alcohol for time periods ranging from 5 to 60 minutes. Each wire then produced, after 24 hours of

incubation, an abundant growth of the test microorganism, indicating that the spores adhering to the wire at the time of culturing had been undisturbed by the ethyl alcohol. Because of the resistance of spores to ethyl alcohol; it is no longer used in hospitals for sterilizing surgical instruments (Ref. 18).

Concentrations ranging from 30 to 70 percent ethyl alcohol inactivated each of seven representative viruses in an exposure period of 10 minutes (Ref. 21). Those viruses with a lipid envelope (herpes simplex, Asian influenza, and vaccinia) were inactivated by 30 to 40 percent concentrations of ethyl alcohol. The other viruses (adenovirus; Coxsackie B, type 1; echo, type 6; and poliovirus, type 1) required concentrations of 50 to 70 percent (Ref. 21). Influenza virus, type A, was completely inactivated by 70 percent ethyl alcohol, whereas a 35-percent concentration had only a weakly inactivating activity (Ref. 21). Seventy percent ethyl alcohol produced a strong but not complete inactivation of vaccinia virus (Ref. 22).

Ethyl alcohol acts relatively quickly to decrease the number of microorganisms on the skin surface. Each minute that scrubbed hands and arms were

immersed in approximately 77 percent ethyl alcohol by volume was found to be equivalent to 6.5 minutes of scrubbing in water; if the skin was scrubbed with the alcohol, the rate was further increased (Ref. 23)

The Panel finds ethyl alcohol safe and effective for use as a topical antimicrobial preparation in concentrations of 60 to 95 percent by volume in an aqueous solution. It is denatured for topical use according to formulas approved by the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms and specified in 27 CFR 212.

(3) **Labeling.** The Panel recommends Category I labeling for alcohol drug products for topical antimicrobial use. (See part III, paragraph A.2 below—Category I labeling.)

(4) **Directions.** "Apply to skin directly or with clean gauze, cotton, or swab."

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b. **Isopropyl alcohol.** Isopropyl alcohol is an isomer of propyl alcohol. It is prepared from propylene, which is obtained in the refining of petroleum or by reduction of acetone (Ref. 1). Isopropyl alcohol forms an azeotrope with water that contains 91.3 percent isopropyl alcohol by volume with a boiling point of 80.4° C (Ref. 2). It has no beverage use, because it is roughly twice as toxic as ethyl alcohol (Ref. 3).

(1) **Safety.** After ingestion, isopropyl alcohol is rapidly absorbed from all portions of the intestinal tract. It is metabolized more slowly than ethyl alcohol, and extracorporeal hemodialysis proved effective in treating two patients who had consumed an amount that would otherwise probably have proved fatal (Refs. 4 and 5). As little as 10 mg isopropyl alcohol per 100 mL blood have produced a noticeable effect in an adult (Ref. 6), and a comatose condition in children has been observed when the level of isopropyl alcohol in the blood was 128 to 130 mg per 100 mL (Refs. 7 and 8).

Symptoms of toxic ingestion of isopropyl alcohol are flushing, headache, dizziness, mental depression, nausea, vomiting, narcosis, anesthesia, and coma. One hundred mL taken orally can be fatal (Ref. 1).

Isopropyl alcohol is sometimes used for bathing to reduce body temperatures, as it evaporates rapidly and cools the skin. The vapors, however, may be absorbed through the lungs, and cases of acute poisoning by this means have occurred when excessive amounts of alcohol have been used for bathing in poorly ventilated areas (Refs. 6 through 9). Garrison (Ref. 7) notes that sponging with cool or cold water can accomplish the same effect without risk of inhaling toxic vapors.

There is a report of one individual who had an allergic reaction to isopropyl alcohol and no reaction to the primary alcohols, methyl, ethyl, butyl, and amyl (Ref. 10). Other individuals have been observed to be allergic to isopropyl alcohol and to ethyl and methyl alcohols as well (Refs. 11, 12, and 13), while an eczematous type of allergic reaction has been reported in still another individual to methyl, ethyl, and propyl alcohols, but not to isopropyl or benzyl alcohols (Ref. 14).

The application of an antimicrobial concentration of isopropyl alcohol to open, extensive wounds could be very irritating and more harmful than beneficial. The Panel, therefore, limits its recommendation for OTC use of this ingredient to application to minor cuts and scrapes, application to the skin prior to breaking it for the removal of small splinters that are not deeply imbedded, and for preparation of skin prior to an injection.

(2) **Effectiveness.** As with ethyl alcohol, water must be present in order for isopropyl alcohol to exert its antibacterial action. In one study, sterile metal strips were partially immersed in bacterial cultures, removed, allowed to dry, and then completely immersed in isopropyl alcohol solutions of different strengths for varying periods of time. When the metal strips were dried in a current of sterile air and transferred to tubes of culture medium, it was shown that 100 percent isopropyl alcohol did not kill *Staphylococcus aureus*, whereas a 50-percent concentration killed *S. aureus* in less than 10 seconds (Ref. 15).

In a study employing a more conventional in vitro technique, 0.5 mL of bacteria cultures were added to 5 mL of isopropyl alcohol in varying concentrations and subcultured after varying periods of time (Ref. 16). It was shown that 50 to 91 percent

concentrations of isopropyl alcohol killed *S. aureus* in an exposure of 1 minute, whereas 10, 20, and 30 percent concentrations did not kill in 5 minutes. *Escherichia coli* was killed by concentrations of 30 to 91 percent isopropyl alcohol in a 5-minute exposure but not by 10 and 20 percent concentrations. Concentrations of 30 to 91 percent killed four non-spore-forming microorganisms, *S. aureus*, hemolytic streptococcus, *E. coli*, and *Salmonella typhosa* in a 30-minute exposure, but 10 and 20 percent concentrations did not.

Against tubercle bacilli in dried sputum smears, 100 percent isopropyl alcohol did not kill in a 60-minute exposure, while 91 percent killed in 10 minutes, 70 percent killed in 1 minute, and 50 and 30 percent killed in 2 minutes (Ref. 17).

Influenza, type A, and vaccinia viruses were inactivated by 48.5 and 99 percent isopropyl alcohol during an exposure period of 10 minutes (Ref. 18). Against the lipophilic viruses, Asian influenza; adenovirus, type 2; vaccinia; and herpes simplex, 20 to 50 percent concentrations of isopropyl alcohol had an inactivating effect in a contact period of 10 minutes. Against the hydrophilic viruses, poliovirus, type 1; Coxsackie B, type 1; and echo virus, type 6, results were mixed. Echo virus, type 6, was inactivated by a 10-minute exposure to 90 percent isopropyl alcohol, but poliovirus, type 1, and Coxsackie B, type 1, were not inactivated by 95 percent isopropyl alcohol (Ref. 19).

Isopropyl alcohol, like ethyl alcohol, is poor in sporicidal activity and therefore not appropriate for use in sterilizing surgical instruments. Concentrations of isopropyl alcohol ranging from 20 to 91 percent failed to kill spores of *Bacillus subtilis* and *Clostridium novyi* in an exposure of 60 minutes, and commercial isopropyl alcohol has been reported to have been contaminated with a saprophytic spore former (Ref. 16).

Based on the available data, the Panel concludes that isopropyl alcohol is safe and effective for use as an OTC topical antimicrobial agent in aqueous solutions ranging from 50 to 91.3 percent by volume.

(3) **Labeling.** The Panel recommends Category I labeling for alcohol drug products for topical antimicrobial use. (See part III, paragraph A.2. below—Category I labeling.)

(4) **Directions.** "Apply to skin directly or with clean gauze, cotton, or swab."

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2. **Category I labeling.** The Panel recommends the following labeling for Category I alcohol drug products for topical antimicrobial use:

a. **Indications.** The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following phrases:

(1) "For first aid use to decrease germs in minor cuts and scrapes."

(2) "To decrease germs on the skin prior to removing a splinter or other foreign object."

(3) "For preparation of the skin prior to an injection."

b. **Directions.** "Apply to skin directly or with clean gauze, cotton, or swab."

c. **Warnings.** (1) *For all alcohol-containing drug products for topical antimicrobial use.* (i) "For external use only. Do not use in or near the eyes. In case of deep or puncture wounds, consult your doctor."

(ii) "Flammable, keep away from fire or flame."

(2) *For products containing isopropyl alcohol.* "Use only in a well-ventilated area; fumes may be toxic."

The Panel notes that in accordance with § 201.10(d)(2) (21 CFR 201.10(d)(2)) the concentration of ethyl alcohol in alcohol drug products must be expressed as the percentage by volume of absolute alcohol. The Panel recommends that the concentration of isopropyl alcohol also be expressed in terms of percentage by volume.

B. **Category II Conditions.** These are conditions under which alcohol active ingredients for topical antimicrobial use are not generally recognized as safe and effective or are misbranded.

1. Category II ingredients.

Benzyl alcohol.

Chlorobutanol.

a. **Benzyl alcohol.** Benzyl alcohol is a primary alcohol with a very faint odor. It is a clear liquid with a boiling point of 206° C at a pressure of 760 mm mercury, and it is only slightly soluble in water (1 part in 25 parts). It possesses local anesthetic properties; a 1-percent solution applied to the tongue or lips produces an anesthetic effect that may persist for half an hour or longer. Its anesthetic effect on a rabbit's cornea is noticeable 1 or 2 minutes after instillation. Injected intravenously into dogs or rabbits, benzyl alcohol produces a drop in blood pressure due to dilation of the peripheral blood vessels.

(1) **Safety.** The minimum lethal dose of benzyl alcohol per kilogram (kg) of body weight for mice was found to be 1.6 to 2.5 mL, for rats it was 1 to 3 mL, and for guinea pigs it was 1 to 2.5 mL. The subcutaneous injection of 2 mL benzyl alcohol per kilogram body weight (mL/kg) of rabbits usually was not fatal, and 2 mL/kg body weight of dogs was never fatal (Ref. 1).

Benzyl alcohol for the most part is excreted in urine in the form of hippuric acid, which may account for its low toxicity for mammals. The subcutaneous or intramuscular injection of benzyl alcohol is irritating and produces necrosis of the tissue. Aqueous or saline

solutions of benzyl alcohol in 1 to 4 percent concentration were reported never to produce irritation or destruction of the tissues into which they were injected (Ref. 1). However, when 4 mL pure benzyl alcohol was accidentally injected in connection with a circumcision operation, complete anesthesia was produced, followed by local necrosis of the tissues and complete recovery. Aqueous solutions of benzyl alcohol are not very efficient for surface anesthesia because of their poor power of penetration into the tissues. The main use of benzyl alcohol in anesthesia is for infiltration anesthesia. If surface anesthesia is desired, the pure chemical should be used (Ref. 2).

It is not uncommon for benzyl alcohol to be present as a preservative or bacteriostatic agent in solutions intended for parenteral administration, and, as such, it is absorbed into the bloodstream (Ref. 3). However, it appears to be well-tolerated at low concentrations (Ref. 4).

Although it was not possible to demonstrate any lethal toxicity for dogs when benzyl alcohol was administered by stomach tube (Ref. 5), the single oral LD₅₀ for rats has been stated to be 3.10 g/kg (Ref. 6).

No instances of hypersensitivity to benzyl alcohol have been found in the literature.

(2) *Effectiveness.* Benzyl alcohol has a definite but weak antimicrobial action. Against *S. typhosa* it has been reported to have a phenol coefficient (measurement of the killing power of a substance compared to that of phenol) of 0.76 (Ref. 7).

In an infection-prevention test using mice (36 to 50 mice for each disinfectant) and *S. pneumoniae* (Type 1) there was a mortality rate of 42 percent among the mice when the *S. pneumoniae* were treated with 4 percent benzyl alcohol. The technique employed was to swab the last 1 to 2 centimeters (cm) of the tail of an anesthetized mouse with a virulent culture of *S. pneumoniae*, type 1, using 5 firm strokes. The tail was then immersed in different disinfectant solutions for 2 minutes. A 1-cm portion was snipped from the end of the tail and placed in a small, sterile Petri dish, the small portion of the tail was then placed in the peritoneal cavity of the same mouse, and the incision was closed. The entire procedure took about 4 minutes per mouse (Ref. 8).

The mortality rate was 13 percent after treatment with 70 percent ethyl alcohol (by weight), 14 percent after treatment with 99 percent isopropanol, 17 percent after treatment with 70 percent ethyl alcohol (by volume), and 18 percent after treatment with a

mixture of 70 percent ethyl alcohol and 4 percent benzyl alcohol (both by weight). There was a 24-percent mortality rate among the mice exposed to a mixture of 0.04 percent nitromersol and 4 percent benzyl alcohol, compared to 96 percent mortality when nitromersol was used alone, and 42 percent mortality when benzyl alcohol was used alone. When *S. pyogenes* was used as the challenging microorganism, there was a mortality rate of 97 percent among the mice after the microorganisms had been exposed to 0.04 percent nitromersol, a 17-percent mortality rate after exposure to 4 percent benzyl alcohol, and a 12-percent mortality rate after the microorganisms had been exposed to a mixture of 0.04 percent nitromersol and 4 percent benzyl alcohol.

Benzyl alcohol was tested for its bacteriostatic activity using a sodium chloride solution (0.9 percent) as a control, and sodium chloride solution (0.9 percent) containing 0.9 percent benzyl alcohol. To verify the bacteriostatic action, 1 mL of a 1-to-100 dilution of an overnight broth culture of *P. aeruginosa* was added to 150 mL of a 0.9-percent sodium chloride solution (control). This immediately produced a concentration of 62,000 *P. aeruginosa* per mL. After 24 hours at room temperature, the bacterial count had increased to 18,000,000 *P. aeruginosa* per mL. However, when some of the same diluted culture was added to 150 mL of a 0.9-percent sodium chloride solution containing 0.9 percent benzyl alcohol, the immediate concentration was 75,000 *P. aeruginosa* per mL. After 24 hours at room temperature, the concentration of microorganisms had decreased to 5,000 *P. aeruginosa* per mL, a 92.5 percent kill. After 48 hours at room temperature, the concentration was 52 microorganisms per mL, a 99.9 percent kill. After 72 hours at room temperature, the saline-benzyl alcohol solution was sterile. The action of 0.9 percent benzyl alcohol in the saline was shown to be bactericidal rather than bacteriostatic, but the killing action was slow as would be expected at that low concentration (Ref. 9).

The antimicrobial action of benzyl alcohol was also shown to be bactericidal rather than bacteriostatic when it was added to a drug preparation intended for parenteral administration (injection). *E. coli*, *P. aeruginosa*, *S. aureus*, and *Candida albicans* were not killed after an exposure of 1 week, but were killed after an exposure of 2 weeks at room temperature. *Aspergillus niger* was not killed after an exposure of 3 weeks, but was killed after 4 weeks (Ref. 4).

The Panel concludes that although benzyl alcohol at a concentration of 0.9

percent maybe useful in pharmaceutical preparations as a preservative, its bactericidal action is so slow that it cannot be recommended for use as a topical antimicrobial agent.

(3) *Evaluation.* The Panel concludes that benzyl alcohol is safe but not effective for OTC topical antimicrobial use.

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- (2) Macht, D. I., "Further Experiences, Experimental and Clinical, with Benzyl Benzoate and Benzyl Alcohol," *Journal of Pharmacology and Experimental Therapeutics*, 13:509-511, 1919.
- (3) Bowen, D., et al., "Benzyl Alcohol: High Levels Found in Plasma of Uremic Patients on Hemodialysis," *Clinica Chimica Acta*, 61:399-401, 1975.
- (4) Novak, E., et al., "The Tolerance and Safety of Intravenously Administered Benzyl Alcohol in Methylprednisolone Sodium Succinate Formulations in Normal Human Subjects," *Toxicology and Applied Pharmacology*, 23:54-61, 1972.
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- (7) Schaffer, J. M., and F. W. Tilley, "Further Investigations of the Relation Between the Chemical Constitution and the Germicidal Activity of Alcohols and Phenols," *Journal of Bacteriology*, 14:259-273, 1927.
- (8) Prombo, M. P., and E. B. Tilden, "Evaluation of Disinfectants by Tests In Vivo," *Journal of Dental Research*, 29:108-122, 1950.
- (9) Morton, H. E., "Alcohols" in "Disinfection, Sterilization, and Preservation," 2d Ed., S. S. Block, editor, Lea & Febiger, Philadelphia, p. 301-318, 1976.

b. *Chlorobutanol.* Chlorobutanol is a substituted tertiary butyl alcohol. It is a colorless-to-white crystalline substance having a camphor-like odor and taste. One gram dissolves in about 125 mL water, 10 mL glycerin, and 1 mL alcohol. It is readily soluble in chloroform, ether, acetone, and oils (Refs. 1 and 2).

The stability of aqueous solutions of chlorobutanol is influenced by pH of the solution, temperature, and chemical nature of the container. It is more stable in an acid than in an alkaline medium. At a pH of 3 and a temperature of 25° C, the half-life of chlorobutanol has been calculated to be 90 years, but at a pH of 7.5 and a temperature of 25° C, the half-life was estimated to be 0.23 year. The main degradation products of

chlorobutanol in aqueous solution are acetone and carbon monoxide (Ref. 3).

(1) *Safety.* Chlorobutanol is a central nervous system depressant and has been used clinically as a hypnotic drug. The oral lethal dose for humans is estimated to be 50 to 500 mg/kg (Ref. 4). It is claimed to have a local anesthetic action and has been shown in vitro to decrease the ability of uterine muscle strips to contract (Ref. 5).

One drop of a 2-percent solution of chlorobutanol applied to both eyes of nine rabbits twice each day for 7 days produced no conjunctival or corneal reaction (Ref. 6).

(2) *Effectiveness.* Chlorobutanol has been found to be a slow-acting bactericidal agent. A contact time of 12 hours was required for a 0.5-percent solution to kill *P. aeruginosa*, and a concentration of 0.7 percent killed this species of bacteria in 9 hours (Ref. 7). In testing 26 strains of *P. aeruginosa*, the time required for 0.5 percent chlorobutanol to kill the microorganisms when they were suspended in a phosphate buffer varied from 1 to 48 hours, and the killing times of chlorobutanol in this concentration for 5 strains of *Proteus* species varied from less than 30 minutes to 3 hours (Ref. 8). Concentrations of 0.25 to 0.26 percent were found to kill 50 percent of *E. coli* cells in an exposure period of about 3½ hours (Ref. 9).

Because chlorobutanol has some bactericidal properties and is not irritating to the eye, it has been used extensively in topical ophthalmic drugs as a preservative (Ref. 10).

(3) *Evaluation.* The Panel concludes that chlorobutanol in concentrations up to 5 percent is safe, but its bactericidal action is too slow for it to be considered effective as a topical antimicrobial agent.

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- (3) Nair, A. D., and J. L. Lach, "The Kinetics of Degradation of Chlorobutanol," *Journal of the American Pharmaceutical Association, Scientific Edition*, 48:390-395, 1959.
- (4) Gosselin, R. E., et al., "Clinical Toxicology of Commercial Products," 4th Ed., The Williams and Wilkins Co., Baltimore, p. 119, 1976.
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Presently Employed in Ophthalmic Preparations as Preservatives Against *Pseudomonas Aeruginosa*," *Journal of Pharmaceutical Sciences*, 52:967-974, 1963.

(8) Lawrence, C. A., "An Evaluation of Chemical Preservatives for Ophthalmic Solutions," *Journal of the American Pharmaceutical Association, (Scientific Edition)*, 44:457-464, 1955.

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(10) Vaughn, D. G., "The Contamination of Fluorescein Solutions," *American Journal of Ophthalmology*, 39:55-61, 1955.

2. *Category II labeling.* The Panel recommends that the following label claims be placed in Category II:

a. "For application to mucous membranes."

(b) "As a local antiseptic in such conditions as simple sunburn, hand iron burns, mouth burns caused by hot food, kitchen burns caused by hot pots, etc."

c. "Useful for preparation for surgical procedures."

d. "For use in sterilizing (preparing) needles and syringes for hypodermic injection."

C. *Category III Conditions.* None.

D. *Combination Policy.* The Panel recommends that any combination of ethyl alcohol or isopropyl alcohol with other antimicrobial ingredients should be in accordance with § 330.10(a)(4)(iv) (21 CFR 330.10(a)(4)(iv)) which states:

An OTC drug may combine two or more safe and effective active ingredients and may be generally recognized as safe and effective when each active ingredient makes a contribution to the claimed effect(s); when combining of the active ingredients does not decrease the safety or effectiveness of any of the individual active ingredients; and when the combination, when used under adequate directions for use and warnings against unsafe use, provides rational concurrent therapy for a significant proportion of the target population.

The Panel does not believe that the combination of isopropyl and ethyl alcohol is rational

List of Subjects in 21 CFR Part 333

Over-the-counter drugs.

PART 333—TOPICAL ANTIMICROBIAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)),

and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), the agency advises in this advance notice of proposed rulemaking that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations would be amended in Part 333 (as set forth in the notice of proposed rulemaking for topical antimicrobial drug products that was published in the Federal Register of January 6, 1978 (43 FR 1210)) as follows:

1. In Subpart A, § 333.3 is amended by adding a new paragraph (k), to read as follows:

§ 333.3 Definitions.

(k) *Alcohol drug product.* A drug product containing an alcohol ingredient that is applied topically for antimicrobial use.

2. In Subpart B, § 333.55 is added to read as follows:

§ 333.55 Alcohol active ingredients.

(a) Alcohol (ethyl alcohol) 60 to 95 percent by volume in an aqueous solution denatured according to the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms regulations at 27 CFR 212.

(b) Isopropyl alcohol 50 to 91.3 percent by volume in an aqueous solution.

3. In Subpart D, § 333.98 is added to read as follows:

§ 333.98 Labeling of alcohol drug products.

(a) *Statement of identity.* The labeling of any product containing an ingredient identified in § 333.55 contains the established name of the drug, if any, and identifies the product as an "alcohol for topical antimicrobial use."

(b) *Indications.* The labeling of any product containing an ingredient identified in § 333.55 contains a statement of the indications under the heading "Indications" that is limited to one or more of the following phrases:

(1) "For first aid use to decrease germs in minor cuts and scrapes."

(2) "To decrease germs on the skin prior to removing a splinter or other foreign object."

(3) "For preparation of the skin prior to an injection."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading, "Warnings":

(1) *For products containing any ingredient identified in § 333.55.* (i) "For external use only. Do not use in or near the eyes. In case of deep or puncture wounds, consult your doctor."

(ii) "Flammable, keep away from fire or flame."

(2) *For products containing isopropyl alcohol identified in § 333.55(b).* "Use only in a well-ventilated area; fumes may be toxic."

(d) *Directions.* The labeling of any product containing an ingredient identified in § 333.55 contains a statement of the directions for use under the heading "Directions" that is limited to the phrase, "Apply to skin directly or with clean gauze, cotton, or swab."

Interested persons may, on or before August 19, 1982, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this advance notice of proposed rulemaking. Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments replying to

comments may also be submitted on or before September 20, 1982. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 25, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

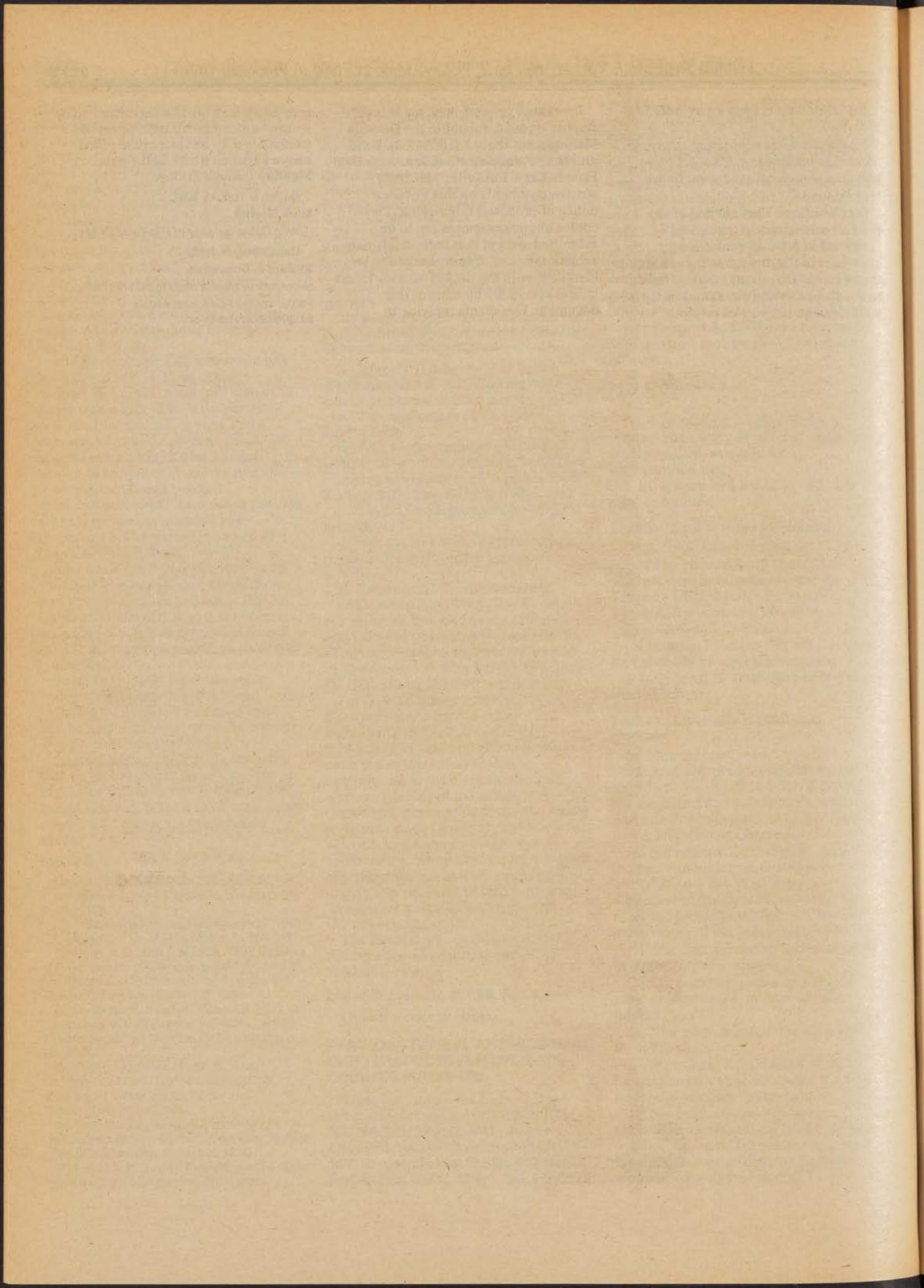
Dated: May 6, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-13903 Filed 5-20-82; 8:45 am]

BILLING CODE 4160-01-M



federal registers

Friday
May 21, 1982

Part VI

Department of the Interior

Bureau of Land Management

**Navarin Basin Outer Continental Shelf
Sale 83; Call for Nominations and
Comments for Oil and Gas Leasing**

4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

Navarin Basin Outer Continental Shelf
Sale 83

Call for Nominations and Comments for Oil and Gas Leasing

Purpose of Call

The purpose of the Call is to assist the Secretary of the Interior in carrying out his responsibilities under the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331-1343), as amended (92 Stat. 629). Potential bidders are requested to outline broad areas where they believe hydrocarbons may occur or where they have an interest in leasing in the Navarin Basin. The Secretary is also requesting comments from all interested parties--Federal, State and local Government, environmental groups, the general public, and potential bidders--on possible environmental effects and use conflicts in the Call area, and on the appropriateness of initial lease terms longer than five years and lease blocks larger than 5,760 acres (2,331 hectares).

Use of Information from Call

Information submitted in response to this Call will be considered along with areas of hydrocarbon potential identified by the U.S. Geological Survey (USGS) and the Minerals Management Service (MMS) in selecting the areas to be proposed for leasing and analyzed in the EIS as the proposed Federal action. This information will also be used in identifying alternatives to the proposed action. Comments received on possible environmental effects and use conflicts may be used in the analysis of local environmental conditions within the Call area so that the potential effects

of oil and gas exploration and development, other than the benefits accruing to the Nation as a result of inventorying and producing oil and gas, can be assessed. These comments may also be useful in developing special lease terms and conditions designed to assure safe offshore operations. Comments submitted regarding length of lease term and size of lease block may be used in the assessment of the appropriate initial lease term and appropriate tract size, pursuant to Section 8 of the OCS Lands Act, as amended (43 U.S.C. 1337).

Description of Area

The area of this Call generally lies between 58° N. latitude and 63° N. latitude; and is bounded on the west by the U.S./Russia 1867 Convention Line; and is bounded on the east by 174° longitude. Its general location is the Central Bering Sea, offshore the State of Alaska. Nominations and comments may be considered for any area within the boundaries of the Call.

The following list identifies the Official Protraction Diagrams included in this Call. The diagrams may be purchased for \$2.00 each from the Manager, Alaska OCS Office, P.O. Box 1159, 620 E. 10th Ave., Anchorage, Alaska 99510.

NP 1-3 (Approved February 25, 1981)
NP 1-4 (Approved February 25, 1981)
NP 1-5 (Approved February 25, 1981)
NP 1-6 (Approved April 30, 1981)
NP 1-7 (Approved February 25, 1981)
NP 1-8 (Approved December 13, 1976)
NO 1-1 (Approved December 17, 1980)
NO 1-2 (Approved February 3, 1977)
NO 1-3 (Approved December 17, 1980)
NO 1-4 (Approved February 18, 1977)

Instructions on Call

Nominations from potential bidders should be limited to the areas

included in the Official Protraction Diagrams described above. Those making nominations are requested to do so on a standard Call for Nominations Map, available free from the Manager, Alaska OCS Office, at the above address; telephone (907) 276-2955. This map shows the Call area and highlights the area identified by the USGS and MMS as having potential for the discovery of deposits of oil and gas. Respondents may suggest areas of potential interest within or beyond those identified by USGS and MMS. Although individual nominations are considered to be privileged and confidential information, the names of persons or entities making nominations or submitting comments will be of public record. Respondents are encouraged to rank areas according to priority of interest (e.g. priority 1, 2, or 3).

In addition to nominations, we are seeking comments from all interested parties about particular geological, environmental, biological, archaeological, socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular areas, where available. Comments should preferably address broad areas but may be restricted to designated blocks of particular concern.

Comments are also being sought from all interested parties on the appropriateness of initial lease periods longer than the normal five years, and on the need, if any, for lease blocks larger than the normal size of 5,760 acres (2,331 hectares). Such comments should describe why such modifications would be appropriate and identify where such modifications should be applied.

Those making comments are requested to mark the area on the Call for Nominations Map, discussed above.

Nominations and comments must be submitted no later than 30 days following publication of this document in the Federal Register, in envelopes labeled "Nominations for Leasing in the Outer Continental Shelf, Navarin Basin" or "Comments on Leasing in the Outer Continental Shelf, Navarin Basin", as appropriate. They must be submitted to the Manager, Alaska OCS Office, at the above address. A copy should be sent to Director (621), Bureau of Land Management, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240, and to the Minerals Manager, Minerals Management Service, P.O. Box 259, Anchorage, Alaska 99510.

Final delineation of the area for competitive bidding will be made only at a later date after compliance with established Departmental procedures, all requirements of the National Environmental Policy Act of 1969, and the Outer Continental Shelf Lands Act, as amended. A Final Notice of Sale, detailing areas to be offered for competitive bidding, will be published in the Federal Register stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

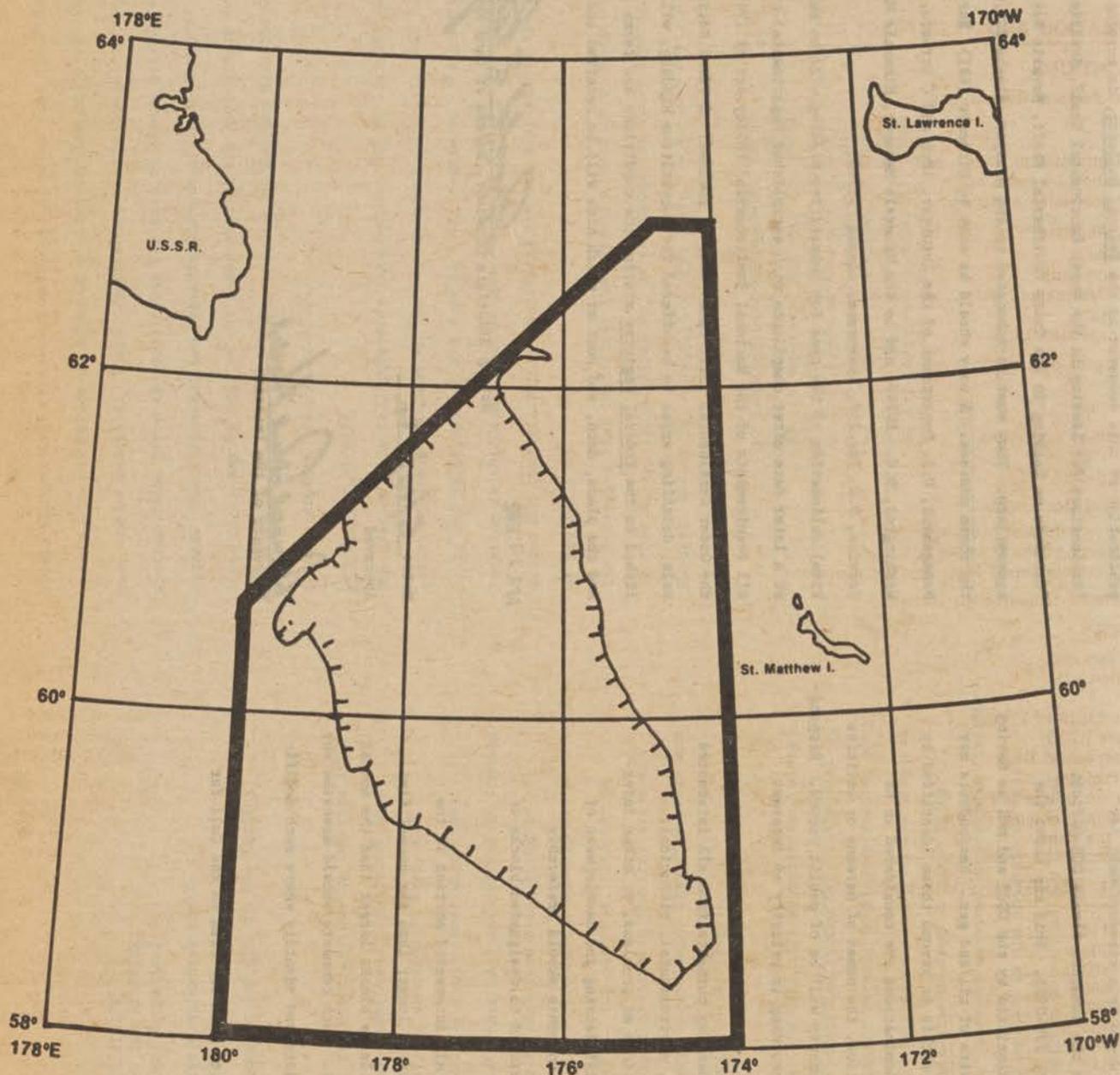
APR 30 1982

David E. Peltz
Acting Associate Director, Bureau of Land Management

Date: 5/10/82
Approved

Alfred E. Brown
Secretary of the Interior

OCS Sale No. 83 Call for Nominations and Comments



0 50 100 miles

Scale 1:1,000,000.

EXPLANATION



Planning Area Boundary Lines



Area of Geologic Potential

This map is for information only, and should not be used in place of the standard response map.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

| Monday | Tuesday | Wednesday | Thursday | Friday |
|-----------------|-----------|-----------|-----------------|-----------|
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| DOT/FRA | MSPB/OPM | | DOT/FRA | MSPB/OPM |
| DOT/MA | LABOR | | DOT/MA | LABOR |
| DOT/NHTSA | HHS/FDA | | DOT/NHTSA | HHS/FDA |
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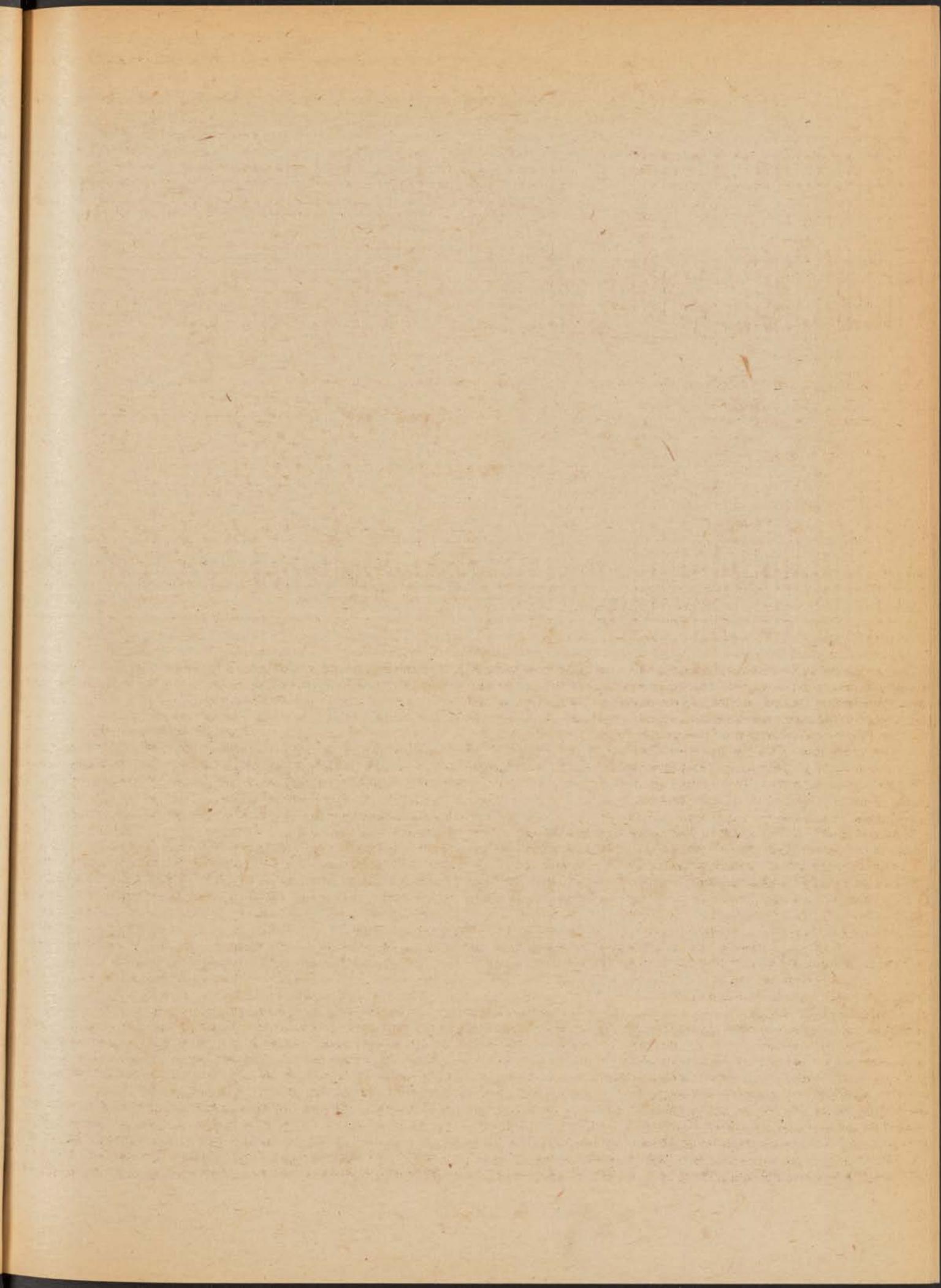
Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

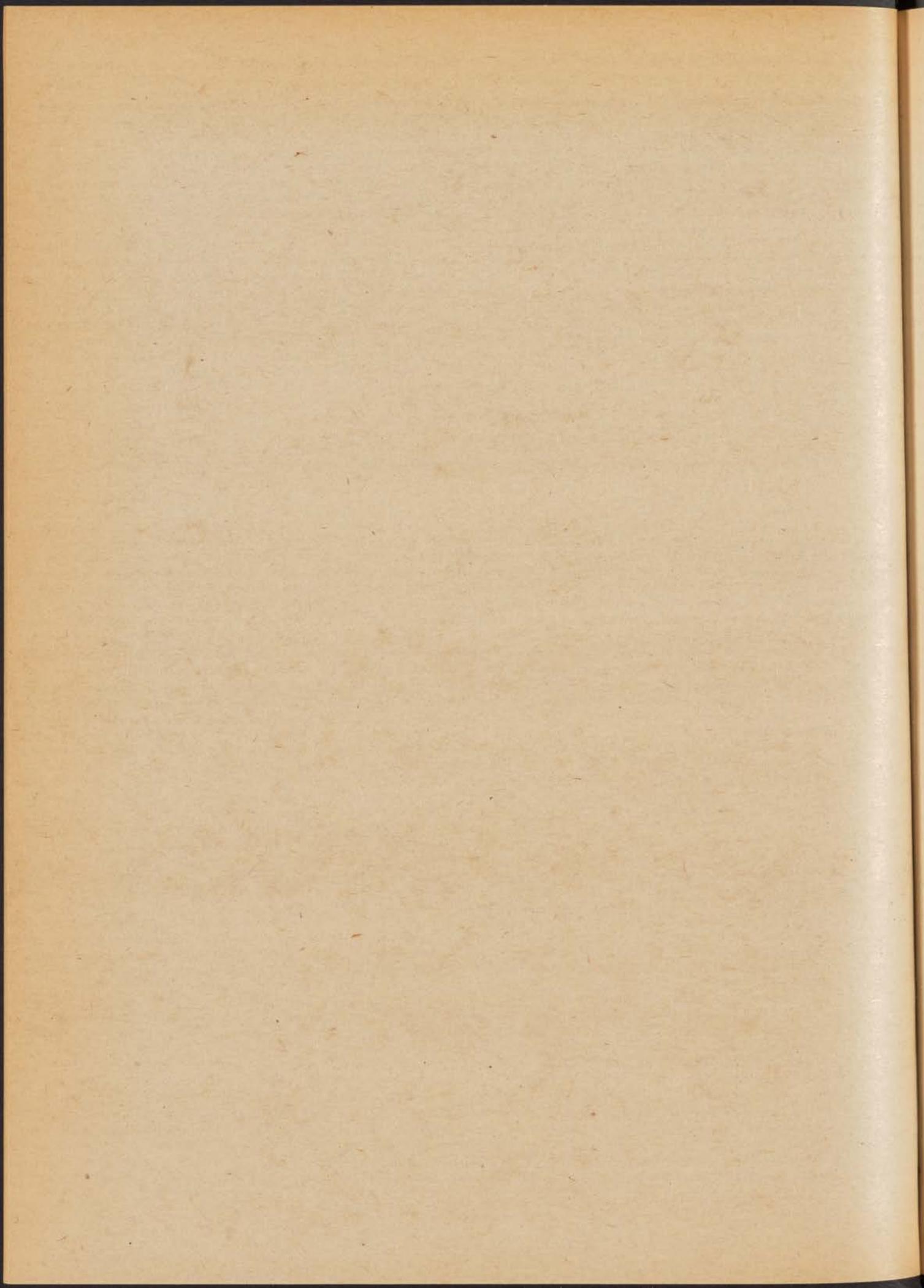
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

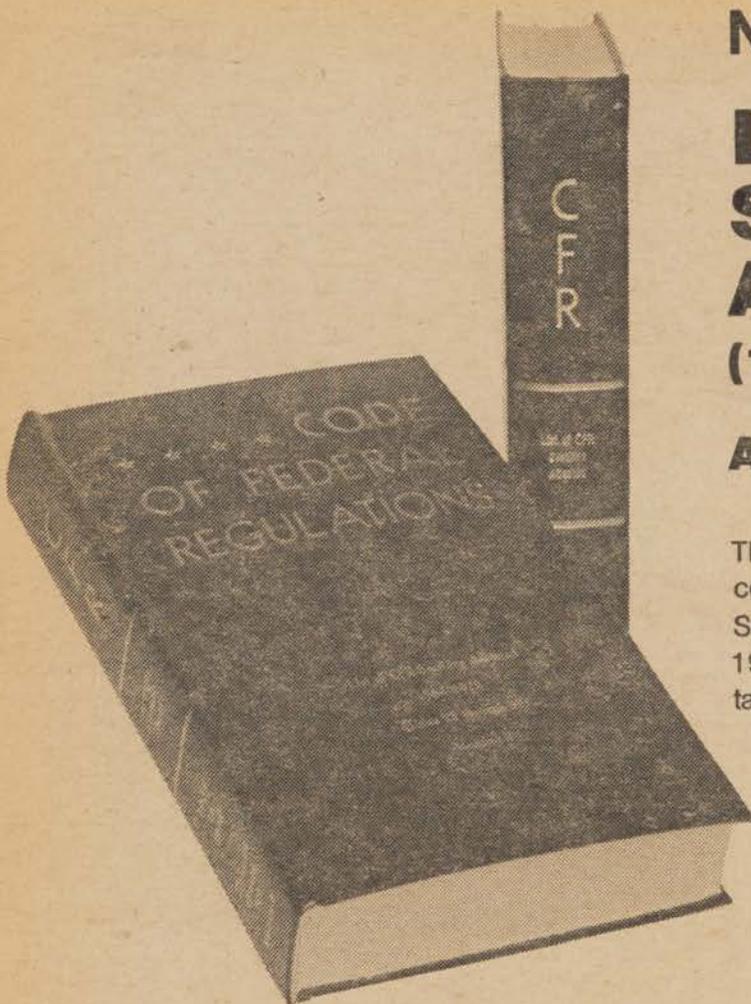
List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing May 19, 1982







New Publication

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