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federal register

Thursday
September 30, 1982

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Interstate Commerce Commission

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Environmental Protection Agency

Air Traffic Control
Federal Aviation Administration

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Federal Aviation Administration

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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.

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 27, 28, and 61

Cotton and Cottonseed; Revision in Fees

AGENCY: Agricultural Marketing Service.
ACTION: Final rulemaking.

SUMMARY: The proposed rulemaking of July 16, 1982 (47 FR 30995), to revise fees due to the increased costs of providing cotton classing, cotton linters grading and related services, and supervision of cottonseed grading, is made final.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Loyd R. Frazier, Chief, Marketing Services Branch, Cotton Division, AMS, USDA, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This action has been reviewed under the USDA procedure established in accordance with Executive Order 12291 of February 17, 1981 and has been classified "non-major" as it does not meet the criteria contained therein for major regulatory actions. William T. Manley, Deputy Administrator for Marketing Programs Operations, has determined that this action will not have a significant impact on a substantial number of small business entities because (i) use of the services is voluntary; and (ii) further, if there is any impact, the Secretary is required by statute to make the services available and to recover the costs of the services from the users of the services. This final rule becomes effective on October 1, 1982, less than 30 days after the publication date, because current revenue does not cover the cost of providing the service at this time and since all of these services are directly related to the marketing of cotton, it is desirable that all fee increases have a uniform effective date of October 1, 1982, the beginning of Fiscal Year 1983. Accordingly, under the administrative provisions of 5 U.S.C. 533, good cause is shown for making this action effective October 1, 1982.

The United States Cotton Standards Act (7 U.S.C. 51–65), United States Cotton Futures Act (7 U.S.C. 15b), and Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) authorize the Secretary of Agriculture to provide cotton classing, cotton linters grading and related services and supervision of cottonseed grading to the public on a fee basis. The Secretary is further directed to set such fees for these services as will allow USDA to recover the costs of providing the services.

The services provided include cotton classing, cotton linters grading and cottonseed grading supervision. Due to increases of USDDA costs in providing these services since the last adjustment in fees on October 1, 1981 (46 FR 48111–48113), an average increase in fees of about 5 percent was published in a notice of proposed rulemaking on July 16, 1982 (47 FR 30995). No comments were received during the 60-day comment period and the proposed amendments are adopted without change.

Many factors are considered in calculating the cost of providing services. Increases in personnel costs have had the most significant impact on these costs. Federal salaries have increased 4.8 percent since October 1, 1981. Some increases in expenditures for rent, utilities, and communications have also occurred during that period.

These increases, along with increased costs for supplies and materials, are responsible for an overall increase in the costs of providing services of approximately 5 percent.

List of Subjects

7 CFR Part 27

Classification, Cotton, Micronaire, Samples.

7 CFR Part 28

Cotton linters, Grades, Staples.

7 CFR Part 61

Cottonseed, Chemists, and Grades.

Therefore the following regulatory sections are amended as follows:

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

1. Section 27.80 is amended by revising paragraphs (a), (b), (d), (e), (f), (g), and (h) to read as follows:

§ 27.80 Fees; classification, micronaire, and supervision.

For services rendered by the Cotton Division pursuant to this subpart, whether the cotton involved is tenderable or not, the person requesting the services shall pay fees as follows:

(a) Initial classification and certification—95 cents per bale.

(b) Review classification and certification—$1.15 per bale.

* * * * *

(d) Combination service—$2.10 per bale. (Initial classification, review classification, and Micronaire determination covered by the same request and only the review classification and Micronaire determination results certified on cotton class certificates.)

(e) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any two or more of these operations are performed together—$1.15 per bale.

(f) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any one of these operations is performed individually—$1.15 per bale.

(g) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different delivery point, including issuance of new cotton class certificates in substitution for prior certificates)—$2.20 per bale.

(h) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different warehouse at the same delivery point, including issuance of new cotton class certificates in substitution for prior certificates)—$1.50 per bale.

(90 Stat. 1841–1846; (7 U.S.C. 15b))

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

2. Section 28.116 is amended by revising paragraph (a) to read as follows:

§ 28.116 Amounts of fees for classification; exemption.

(a) For the classification of any cotton or samples, the person requesting the services shall pay a fee, as follows, subject to the additional fee provided in paragraph (c) of this Section:

(1) Grade, staple, and micronaire reading—$1.05 per sample.

(2) Grade and staple only—90 cents per sample.

(3) Grade only or staple only—65 cents per sample.

(4) Micronaire reading only—20 cents per sample.

* * * * *

3. Sections 28.117, 28.120, 28.122, 28.148, and 28.149 are revised to read as follows:

§ 28.117 Fee for new memorandum or certificate.

For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder, thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of $1.90 per sheet.

§ 28.120 Expenses to be borne by party requesting classification.

For any samples submitted for Form A or Form D determinations, the expenses of inspection and sampling, the preparation of the samples, and the delivery of such samples to the classification room or other place specifically designated for the purpose by the Director shall be borne by the party requesting the classification. For samples submitted for Form C determinations, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $14.65 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

§ 28.122 Fee for practical classing examination.

The fee for the complete practical classing examination for cotton or cotton linters shall be $95. Any applicant who passes both parts of the examination may be issued a certificate indicating this accomplishment. Any person who passes one part of the examination, either grade or staple, and fails to pass the other part, may be reexamined for that part that was failed. The fee for this partial reexamination is $52.

§ 28.148 Fees and costs; classification: reviews; other.

The fee for the classification, comparison, or review of linters with respect to grade, staple, and character or any of these qualities shall be at the rate of 95 cents for each bale or sample involved. The provisions of §§ 28.115 through 28.126 relating to other fees and costs shall, so far as applicable apply to services performed with respect to linters.

§ 28.149 Fees and costs; Form C determination.

For samples submitted for Form C determination, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $14.65 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

(Sec. 10, 42 Stat. 1519; 7 U.S.C. 61, unless otherwise noted)

4. Section 28.184 is revised to read as follows:

§ 28.184 Cotton linters; general.

Requests for the classification or comparison of cotton linters pursuant to this subpart and the samples involved shall be submitted to the Cotton Division. All samples classed shall be on the basis of the official cotton linters standards of the United States. The fee for classification or comparison and the issuance of a memorandum showing the results of such classification or comparison shall be 95 cents per sample.

(Sec. 205, 60 stat. 1090, as amended; 7 U.S.C. 1624)

PART 61—COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES (INSPECTION SAMPLING AND CERTIFICATION)

5. Sections 61.43, 61.44, 61.45, and 61.46 are revised to read as follows:

§ 61.43 Fee for sampler's license.

In the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be $15, but no additional charge shall be made for the issuance of a license. For each renewal of a sampler's license the fee shall be $13.

§ 61.44 Fee for chemist's license.

For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be $300, but no additional charge shall be made for the issuance of a license. For each renewal of a chemist's license the fee shall be $100.

§ 61.45 Fee for certificates to be paid by licensee to Service.

To cover in part the cost of administering the regulations in this part each licensed cottonseed chemist shall pay to the Service $1.15 for each certificate of the grade of cottonseed issued by him. Upon receipt of a statement from the Service each month showing the number of certificates issued by the licensee, such licensee will forward the appropriate remittance in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA."

§ 61.46 Fees for the review of grading of cottonseed.

For the review of the grading of any lot of cottonseed, the fee shall be $39. Remittance to cover such fee, in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA" shall accompany each application for review. Of each such fee collected, $13 shall be disbursed to each of the two licensed chemists designated to make reanalysis of such seed.

(Secs. 203 and 205, 60 Stat. 1087 and 1090, as amended; 7 U.S.C. 1622–1624)

Dated: September 27, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-26969 Filed 9-29-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 981

Handling of Almonds Grown in California; Salable, Reserve, and Export Percentages for the 1982–83 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes salable, reserve, and export percentages of 98 percent, 2 percent, and 0 percent, respectively, for marketable California almonds received by handlers during the 1982–83 crop year, which began July 1, 1982. This action is taken under the marketing order for almonds grown in California and is designed to encourage the development of almond butter and

school lunch outlets as viable long-term markets for almonds.

EFFECTIVE DATES: July 1, 1982, through June 30, 1983.

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

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

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it will result in only minimal costs being incurred by the regulated 29 handlers.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register (5 U.S.C. 553). The marketing order for California almonds requires that the salable, reserve, and export percentages established for a particular crop year apply to all marketable almonds received by handlers from the beginning of that year. The 1982-83 crop year began July 1, 1982, and handlers are now receiving new crop almonds.

Notice of this action was published in the August 27, 1982, issue of the Federal Register (47 FR 37911), and interested persons were afforded an opportunity to submit written comments. One comment was received.

The authority to establish salable, reserve, and export percentages is pursuant to § 981.47 of the marketing agreement and Order No. 981, both as amended (7 CFR Part 981), regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The percentages were unanimously recommended by the Almond Board of California, hereinafter referred to as the "Board", which works with the USDA in administering the order.

Pursuant to §§ 981.47 and 981.49 of the order, the Board based its recommendation for salable, reserve, and export percentages of 98 percent, 2 percent, and 0 percent, respectively, on estimates of marketable supply and combined domestic and export trade demand for the current crop year. The Board's marketable supply estimate of 340 million pounds is based upon its 1982 crop estimate of 365 million pounds minus and estimated weight loss of 25 million pounds. The weight loss is expected from the removal of inedible kernels by handlers and losses during manufacturing.

Trade demand is estimated at 360 million pounds—140 million pounds for domestic needs and 220 million pounds for export needs. An inventory adjustment is made to account for supplies of almonds carried in from the 1981-82 marketing year and for supplies deemed desirable to be carried out on June 30, 1983, for early season shipments during the 1983-84 crop year until the 1983 crop is available for market. After adjusting for inventory, the salable supply is calculated at 333.2 million pounds, the quantity of almonds from the 1982 estimated marketable production necessary for trade demand needs. The salable percentage of 98 percent is established to meet those needs.

The remaining two percent (6.8 million pounds) of the 1982 marketable production must be withheld by handlers to meet their reserve obligations. These almonds will be available to develop outlets noncompetitive with normal domestic and export outlets. The development of such outlets is a long-term necessity for the industry because of anticipated larger crops. The Board plans to use the reserve to develop a market for almond butter and has presented an industry-wide project. The Board's objective is to develop a permanent consumer demand for almond butter and related products that, in time, will absorb a large quantity of almonds. To insure success with this project, the Board believes that initially it is necessary to keep almond butter competitive with peanut butter, which currently dominates the market. In addition, the Board plans to promote the use of almonds in school lunch programs with the objective of encouraging school authorities to buy almonds for those programs on a regular basis. Reserve almonds could also be disposed of in other eligible noncompetitive outlets authorized by the order.

The order permits the Board to include normal export requirements with domestic requirements in its estimate of trade demand when recommending the establishment of salable, reserve, and export percentages for any crop year. For the 1982-83 crop year, estimated exports are included in trade demand, thereby making export a salable outlet rather than a reserve outlet. Because of this action, no portion of the reserve will be eligible for export to normal outlets. Thus, an export percentage of 0 is established.

A complete tabulation of the estimates and calculations used by the Board in arriving at its recommendation is as follows:

MARKETING POLICY ESTIMATES—1982 CROP

[Kernel weight basis]

	Million pounds	Percent
Estimated production:		
1. 1982 crop	365.0	.....
2. Loss and exempt—6.85%	25.0	.....
3. Marketable supply	340.0	.....
Estimated trade shipments:		
4. Domestic	140.0	.....
5. Export	220.0	.....
6. Total	360.0	.....
Inventory adjustment:		
7. Carryin July 1, 1982	161.0	.....
8. Estimated carryover June 30, 1983	134.2	.....
9. Adjustment	(26.8)	.....
Salable/reserve:		
10. Salable supply (6 plus 9)	333.2	.....
11. Reserve supply (3 minus 10)	6.8	.....
12. Salable percent (10÷3×100)	.....	98.0
13. Reserve percent (100% minus 12)	.....	2.0

The commenter expressed opposition to the establishment of a reserve percentage, stating that the reserve would limit almond sales to normal markets and, thereby, increase the price of almonds to consumers. The commenter further stated that the increase in price would, in turn, encourage an inefficient expansion of almond acreage. The comment is denied for the reasons contained in the succeeding paragraph.

While the two percent reserve will limit the supply of almonds available to normal markets to a small extent, it is not expected to have any effect on grower and consumer prices in 1982-83. Moreover, there appears to be no correlation between the establishment of reserve percentages and the rapid increase in almond acreage in recent years. During the 1973-74 crop year through 1981-82 crop year period, reserve percentages were established for only two years: A 3.2 percent reserve in 1976-77 and a 25 percent reserve in 1981-82. Both of these reserves were subsequently revoked because market needs dictated this. Nonetheless, total bearing and non-bearing almond acreage increased from 281,528 acres to 407,706 acres during that period.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, California.

Therefore, after consideration of all relevant matter presented, including that in the notice, the Board's recommendation, the comment received, and other available information, it is further found that the establishment of salable, reserve, and export

percentages, as hereinafter set forth, will tend to effectuate the declared policy of the act.

The marketing percentages are as follows: (This subpart will not appear in the Code of Federal Regulations).

PART 981—ALMONDS GROWN IN CALIFORNIA

Subpart—Salable, Reserve, and Export Percentages

Section 981.231 is added as follows:

§ 981.231 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1982.

The salable, reserve, and export percentages during the crop year beginning July 1, 1982, shall be 98 percent, 2 percent, and 0 percent, respectively.

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

Dated: September 24, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-26965 Filed 9-29-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1004

Milk in the Middle Atlantic Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for October and November 1982 provisions of the Middle Atlantic order which relate to the percentage of milk not needed for fluid (bottling) use which may be moved directly from farms to manufacturing plants and still be priced under the order. The suspension makes inoperative the 30 percent limit on the percentage of a handler's producer milk which may be diverted to nonpool plants during the months of September through February. The suspension is in response to a request for emergency action made at a public hearing held on August 24, 1982, in Philadelphia, Pennsylvania, to consider proposed amendments that would increase diversion allowances under the order. This action would enable producers who have been regularly associated with the fluid milk market to continue to have their milk pooled and priced under the order pending completion of proceedings on the proposed order amendments that were considered at the hearing.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6273.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Hearing: Issued August 4, 1982; published August 10, 1982 (47 FR 34573).

This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

This action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers who supply milk for the area will have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Middle Atlantic marketing area.

It is hereby found and determined that for the months of October and November 1982 the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1004.12, all of paragraph (d) except the introductory text.

Statement of Consideration

This action, based on evidence received at a public hearing held on August 24, 1982, at Philadelphia, Pennsylvania, is requested by Inter-State Milk Producers' Cooperative, a cooperative association which is a handler under the order. It suspends for October and November 1982 the limit on the amount of producer milk which a handler may divert directly from farms to nonpool plants. Currently, a handler may divert to nonpool plants not more than 18 days' production of each producer or, in the alternative, 30 percent of the volume of the handler's total producer milk receipts during the months of September through February.

At the hearing, a proposed amendment was considered that would increase from 30 percent to 40 percent the allowable percentage of a handler's producer milk receipts that may be diverted to nonpool plants. The proponent cooperative, which markets the milk of a substantial number of producers pooled on the Middle Atlantic market, testified that the amendment is necessary to maintain the pool status of its members, who historically have been associated with the market. Proponent requested that the present diversion limits be suspended pending completion of the hearing proceeding.

The basis for the cooperative's request for suspension and proposed amendment is a change from pool status to nonpool status, because of a change in ownership, of a reserve milk processing plant which has been associated with the market for a long time. The plant is located at Belleville, Pennsylvania, and has been a regular outlet for a significant proportion of the market's reserve milk supply handled by proponent cooperative. The cooperative spokesman testified that the change in pool status of the Belleville plant will require that deliveries to the plant be received on a diverted basis in order that producer milk long associated with the market will remain pooled. The witness also pointed to continuing trends of increased milk production and declining Class I use as conditions which increase the necessity of diverting Order 4 producer milk to nonpool plants. The additional volume of diversions of producer milk to nonpool plants which Inter-State projected would be required as a result of this combination of factors would be in excess of the 30 percent limit under the order. According to data submitted by proponent at the hearing, actual deliveries by Inter-State to nonpool plants and to the Belleville plant during the months of September through November 1981 exceeded 30 percent of the total producer milk handled by the cooperative.

Representatives of two other cooperative associations marketing milk pooled under the Middle Atlantic order expressed support for the proposed amendments and for the requested suspension. No opposition to either proposal was expressed at the hearing or in post-hearing briefs. The only post-hearing brief received on this issue was filed by proponent, and supported their position taken at the hearing.

Without emergency suspension action, the proponent cooperative would find it necessary to engage in inefficient and costly movements of surplus milk first to pool plants and then to nonpool plants solely for purposes of qualifying producers who otherwise would be excluded from the marketwide pool. Whether or not diversion limits should be increased on a permanent basis by amendment is a matter to be determined after the hearing record and posthearing briefs have been fully reviewed. In the interim, suspension through November is warranted, as it will tend to assure orderly marketing pending the outcome of the hearing proceeding.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise could be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) The marketing problems that provide the basis for this suspension action were fully reviewed at a public hearing held on August 24, 1982, where all interested parties had the opportunity to be heard on proposals to increase the limits on diversions of producer milk to nonpool plants and to suspend those limits pending the outcome of the hearing proceeding.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1004

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of the order (§ 1004.12, all of paragraph (d) except the introductory text) are hereby suspended for the months of October and November 1982.

Effective date: September 30, 1982.

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

Signed at Washington, D.C. on September 27, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-26981 Filed 9-29-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1006, 1012, 1013, 1033, 1036, 1040, 1124, 1125, 1133, 1135, and 1139

[Docket Nos. AO-356-A18, et al.]

Milk in the Upper Florida and Certain Other Marketing Areas; Order Amending Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

7 CFR Part	Marketing Area	AO Numbers
1006	Upper Florida	AO-356-A18
1012	Tampa Bay	AO-347-A21
1013	Southeastern Florida	AO-286-A29
1033	Ohio Valley	AO-166-A50
1036	Eastern Ohio-Western Pennsylvania	AO-179-A45
1040	Southern Michigan	AO-225-A34
1124	Oregon-Washington	AO-368-A11
1125	Puget Sound, Washington	AO-226-A29-RO1
1133	Inland Empire	AO-275-A32-RO1
1135	Southwestern Idaho-Eastern Oregon	AO-380-A2
1139	Lake Mead	AO-374-A7

SUMMARY: This action establishes a new procedure for announcing Class II prices under the milk orders involved in this proceeding. A tentative Class II price for a particular month would be announced by the 15th day of the preceding month. The final Class II price would be announced by the 5th day after the month and would reflect, if applicable, the use of the Class II (or Minnesota-Wisconsin) price for that month as a "floor" under the Class II price. The amendments are based on industry proposals considered at a public hearing held on February 3, 1982.

EFFECTIVE DATE: November 1, 1982.

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

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued January 4, 1982, published January 7, 1982 (47 FR 814).

Recommended Decision: Issued June 18, 1982 published June 24, 1982 (47 FR 27342)

Final Decision: Issued August 17, 1982, published August 25, 1982 (47 FR 37178).

Findings and Determinations

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

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

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

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

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

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

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

B. *Determinations:* It is hereby determined that:

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

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

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

(4) The issuance of the order, amending the order, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is approved or favored by at least two-thirds of the producers, as defined under the terms of the order, who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the Eastern Ohio-Western Pennsylvania marketing area.

List of Subjects in 7 CFR Parts 1006, 1012, 1013, 1033, 1036, 1040, 1124, 1125, 1133, 1135, and 1139

Milk marketing orders, Milk, Dairy products.

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

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. A new § 1006.19 is added to read as follows:

§ 1006.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1006.51a:

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

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

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

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

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

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

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

2. Section 1006.50(b) is revised to read as follows:

§ 1006.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1006.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 15 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1006.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1006.51a.

3. A new § 1006.51a is added to read as follows:

§ 1006.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1006.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1006.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

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

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

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

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

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

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

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

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

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

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

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

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

4. Section 1006.53 is revised to read as follows:

§ 1006.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1006.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. A new § 1012.19 is added to read as follows:

§ 1012.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1012.51a:

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

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

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

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

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

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

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

2. Section 1012.50(b) is revised to read as follows:

§ 1012.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1012.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 15 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1012.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1012.51a.

3. A new § 1012.51a is added to read as follows:

§ 1012.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1012.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1012.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

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

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

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

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

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

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

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

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

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

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

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Progam for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

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

4. Section 1012.53 is revised to read as follows:

§ 1012.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1012.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. A new § 1013.19 is added to read as follows:

§ 1013.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1013.51a:

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

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

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

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

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

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

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

Monday through Friday except national holidays.

2. Section 1013.50(b) is revised to read as follows:

§ 1013.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1013.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 15 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1013.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1013.51a.

* * * * *

3. A new § 1013.51a is added to read as follows:

§ 1013.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1013.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1013.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

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

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

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

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

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

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

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

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

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

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

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

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

4. Section 1013.53 is revised to read as follows:

§ 1013.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1013.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

1. A new § 1033.21 is added to read as follows:

§ 1033.21 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1033.51a:

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

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

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average,

for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

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

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

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

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

2. Section 1033.27(k) is revised to read as follows:

§ 1033.27 Additional duties of the market administrator.

* * * * *

(k) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The final Class II price for the preceding month, except that the Class II price announced for the first month during which this paragraph is effective shall be the price specified in the proviso in § 1033.51(b);

(iii) The Class III price for the preceding month; and

(iv) The butterfat differential for the preceding month;

(2) The 12th day of each month, the uniform price for the preceding month; and

(3) The 15th day of each month, the tentative Class II price for the following month.

* * * * *

3. Section 1033.51(b) is revised to read as follows:

§ 1033.51 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the proceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1033.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1033.50 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1033.51a.

* * * * *

4. A new § 1033.51a is added to read as follows:

§ 1033.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1033.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1033.21 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

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

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

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

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

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

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

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

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

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

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

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

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

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. A new § 1036.20 is added to read as follows:

§ 1036.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1036.51a:

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

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

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

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

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

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

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

2. Section 1036.50(b) is revised to read as follows:

§ 1036.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1036.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1036.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1036.51a.

* * * * *

3. A new § 1036.51a is added to read as follows:

§ 1036.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to paragraph (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1036.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

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

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

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

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

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

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

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

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

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

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the

yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

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

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

4. Section 1036.53 is revised to read as follows:

§ 1036.53 Announcement of class prices.

The market administrator shall announces publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1036.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. A new § 1040.21 is added to read as follows:

§ 1040.21 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1040.51a:

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

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

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

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

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

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

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

2. Section 1040.50(b) is revised to read as follows:

§ 1040.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1040.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the Class III price for the month plus 15 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to §1040.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1040.51a.

* * * * *

3. A new § 1040.51a is added to read as follows:

§ 1040.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1040.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed using price data determined pursuant to § 1040.21 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

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

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

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the

butterfat component of the whey value in the cheese price computation; and

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

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

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

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

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

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

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

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

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

4. Section 1040.53 is revised to read as follows:

§ 1040.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1040.50(b): And on or before the 15th day of each month the tentative Class II price for the following month.

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

1. A new § 1124.20 is added to read as follows:

§ 1124.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1124.51a:

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

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

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

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

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

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

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

2. Section 1124.22(i) is revised to read as follows:

§ 1124.22 Additional duties of the market administrator.

* * * * *

(i) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class I butterfat differential for the current month;

(iii) The Class III price for the preceding month;

(iv) The Class II and Class III butterfat differentials for the preceding month; and

(v) The final Class II price for the preceding month, except that the Class II price announced for the first month during which this paragraph is effective shall be the price specified in the proviso in § 1124.51(b);

(2) The 14th day of each month, the uniform prices and the producer butterfat differential, both for the preceding month; and

(3) The 15th day of each month, the tentative Class II price for the following month;

* * * * *

3. Section 1124.51(b) is revised to read as follows:

§ 1124.51 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1124.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c) (1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the Class III price for the month plus 25 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1124.50 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1124.51a.

* * * * *

4. A new § 1124.51a is added to read as follows:

§ 1124.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1124.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross value per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1124.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month, and separately, for the first 15 days of the second preceding month as follows:

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

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

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

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

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

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

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

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

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

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

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

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

PART 1125—MILK IN THE PUGET SOUND, WASHINGTON MARKETING AREA

1. A new § 1125.19 is added to read as follows:

§ 1125.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1125.51a:

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

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

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

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

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

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

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

2. Section 1125.50(b) is revised to read as follows:

§ 1125.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c)(1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the Class III price for the month plus 25 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1125.51 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1125.51a.

* * * * *

3. A new § 1125.51a is added to read as follows:

§ 1125.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1125.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1125.19 and field factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

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

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

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

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

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

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

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

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

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

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

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

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

4. Section § 1125.53 is revised to read as follows:

§ 1125.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1125.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

1. A new § 1133.19 is added to read as follows:

§ 1133.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1133.51a:

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

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

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

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

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

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

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

2. Section 1133.50(b) is revised to read as follows:

§ 1133.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c) (1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the Class III price for the month plus 25 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1133.51 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1133.51a.

* * * * *

3. A new § 1133.51a is added to read as follows:

§ 1133.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1133.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1133.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

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

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

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

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

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

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

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

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

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

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to

determine the quantity of milk used in the production of American cheddar cheese; and

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

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

4. Section 1133.53 is revised to read as follows:

§ 1133.53 Announcement of class prices and handler butterfat differentials.

The market administrator shall announce publicly on or before:

(a) The 5th day of each month:

(1) The Class I price for the following month;

(2) The Class I butterfat differential for the current month;

(3) The Class III price for the preceding month;

(4) The Class II and Class III butterfat differential for the preceding month; and

(5) The final Class II price for the preceding month, except that the Class II price announced for the first month during which this paragraph is effective shall be the price specified in the proviso in § 1133.50(b);

(b) The 15th day of each month, the tentative Class II price for the following month.

PART 1135—MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

1. A new § 1135.19 is added to read as follows:

§ 1135.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1135.51a:

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

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

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

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

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

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

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

2. Section 1135.50(b) is revised to read as follows:

§ 1135.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1135.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1135.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1135.51a.

* * * * *

3. A new § 1135.51a is added to read as follows:

§ 1135.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1135.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1135.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

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

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

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

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

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

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

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

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

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

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

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

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

4. Section 1135.53 is revised to read as follows:

§ 1135.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1135.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1139—MILK IN THE LAKE MEAD MARKETING AREA

1. A new § 1139.19 is added to read as follows:

§ 1139.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1139.51a:

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

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

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

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

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

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

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

2. Section 1139.50(b) is revised to read as follows:

§ 1139.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1139.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first

month this paragraph is effective the Class II price shall be the basic formula price for the month plus 15 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1139.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1139.51a.

* * * * *

3. A new § 1139.51a is added to read as follows:

§ 1139.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1139.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1139.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

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

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

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

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

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

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

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

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

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

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

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

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

4. Section 1139.53 is revised to read as follows:

§ 1139.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1139.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

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

Effective Date: November 1, 1982.

Signed at Washington, D.C. on: September 27, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-26942 Filed 9-29-82; 8:45 am]

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7 CFR Parts 1137, 1134 and 1136

[Docket Nos. AO-326-A21, AO-301-A17, AO-309-A23, AO-326-A21-RO1, AO-301-A17-RO1 and AO-309-A23-RO1]

Milk in the Eastern Colorado, Western Colorado and Great Basin Marketing Areas; Order Amending Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action adopts in each of the three milk marketing orders the uniform classification and order format provisions that were incorporated in a large number of other milk orders in 1974, including a 10-cent Class II differential and the use of a single butterfat differential. It also establishes a new procedure for announcing Class II prices in each of the 3 orders. In the Eastern Colorado milk order only, it would permit a handler to consider all his distributing plants as a single unit for purposes of meeting the pooling standards. The amendments are based on industry proposals considered at a public hearing held on February 2, 1982.

EFFECTIVE DATE: November 1, 1982.

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

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notices of Hearing: Issued January 4, 1982; published January 7, 1982 (47 FR 778 and 814).

Recommended Decisions: Issued June 18, 1982; published June 24, 1982 (47 FR 27299 and 27342).

Final Decisions: Issued August 17, 1982; published August 25, 1982 (47 FR 37178 and 37203).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of

the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

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

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

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

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

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

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

B. *Determinations:* It is hereby determined that:

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

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

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

List of Subjects in 7 CFR Parts 1137, 1134 and 1136

Milk marketing orders, Milk, Dairy products.

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

In Title 7 of the Code of the Federal Regulations, Parts 1137, 1134 and 1136 are revised to read as follows:

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.
1137.1 General provisions.

Definitions

1137.2 Eastern Colorado marketing area.
1137.3 Route disposition.
1137.4 [Reserved]
1137.5 [Reserved]
1137.6 [Reserved]
1137.7 Pool plant.
1137.8 Nonpool plant.
1137.9 Handler.
1137.10 Producer-handler.
1137.11 [Reserved]
1137.12 Producer.
1137.13 Producer milk.
1137.14 Other source milk.
1137.15 Fluid milk product.
1137.16 Fluid cream product.
1137.17 Filled milk.
1137.18 Cooperative association.
1137.19 Product prices.

Handler Reports

1137.30 Reports of receipts and utilization.
1137.31 Payroll reports.
1137.32 Other reports.

Classification of Milk

1137.40 Classes of utilization.
1137.41 Shrinkage.
1137.42 Classification of transfers and diversions.
1137.43 General classification rules.
1137.44 Classification of producers milk.
1137.45 Market administrator's reports and announcements concerning classification.

Class Prices

1137.50 Class prices.
1137.51 Basic formula price.
1137.51a Basic Class II formula price.
1137.52 Plant location adjustments for handlers.
1137.53 Announcement of class prices.
1137.54 Equivalent price.

Uniform Price

1137.60 Handlers value of milk for computing uniform price.
1137.61 Computation of uniform price.
1137.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1137.70 Producer-settlement fund.
1137.71 Payments to the producer-settlement fund.
1137.72 Payments from the producer-settlement fund.
1137.73 Payments to producers and to cooperative associations.
1137.74 Butterfat differential.
1137.75 Plant location adjustments for producers and on nonpool milk.
1137.76 Payments by a handler operating a partially regulated distributing plant.
1137.77 Adjustment of accounts.
1137.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction

1137.85 Assessment for order administration.
1137.86 Deduction for marketing services.

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

General Provisions

§ 1137.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1137.2 Eastern Colorado marketing area.

"Eastern Colorado marketing area" hereinafter called the "marketing area" means all the territory within the perimetric boundaries of the counties listed below, including all territory (municipal, State, or Federal) installations, institutions and other establishments:

Colorado Counties

Adams, Arapahoe, Boulder, Cheyenne, Clear Creek, Crowley, Custer, Denver, Douglas, Elbert, El Paso, Gilpin, Huerfano, Jefferson, Kiowa, Kit Carson, Las Animas, Larimer, Lincoln, Logan, Morgan, Otero, Park, Phillips, Pueblo, Sedgwick, Teller, Washington, Weld, Yuma.

Kansas Counties

Cheyenne, Logan, Sherman, Wallace.

§ 1137.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including a delivery by a vendor or a sale from a plant or plant store) of any

fluid milk product classified as Class I milk, other than a delivery to a pool plant or a nonpool plant: *Provided*, That packaged fluid milk products, except filled milk, that are transferred to a distributing plant from a plant with route disposition in the marketing area, and which are classified as Class I under § 1137.40(a), shall be considered as a route disposition from the transferor plant, rather than from the transferee plant, for the single purpose of qualifying it as a pool distributing plant under § 1137.7(a)(1).

§§ 1137.4—1137.6 [Reserved]

§ 1137.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which during the month fluid milk products are processed or packaged and from which:

(1) An amount equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as route disposition, except filled milk. A unit consisting of two or more distributing plants operated by a handler shall be considered as one distrubuting plant for the purpose of meeting the requirements of this subparagraph if each plant separately meets the requirements of paragraph (a)(2) of this section and the handler notifies the market administrator in writing before the first day of the month that the plants should be considered as a unit. The unit shall continue from month to month thereafter without further notification. If, however, there is any change in the composition of the unit, the handler shall notify the market administrator in writing on or before the first day of the month such change is to be made; and

(2) Ten percent or more of such receipts, or 12,000 pounds per day, whichever is less, are disposed of as route disposition, except filled milk, in the marketing area.

(b) Any plant, hereinafter referred to as a "supply pool plant" from which during the month 50 percent of its dairy farm supply of Grade A milk is moved to distributing pool plant(s) as fluid milk products, except filled milk. Any supply plant which has qualified as a pool plant in each of the months of September through February shall be a pool plant in each of the following months of March through August unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of March through August unless it fulfills the shipping requirements of this paragraph for such month.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) Any distributing plant from which there is less than an average of 300 pounds of route disposition per day, except filled milk, in the marketing area during the month.

§ 1137.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant nor a producer-handler plant from which fluid milk products are moved during the month to a pool plant.

§ 1137.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1137.12;

(c) A cooperative association with respect to the milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association, if the cooperative association notifies the market administrator and the operator of the pool plant to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it elects to be the handler for all such milk. Such milk shall be deemed to have been received by such cooperative association at the location of the pool plant to which delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1137.7(c).

§ 1137.10 Producer-handler.

(a) "Producer-handler" means any person who operates a dairy farm and a milk processing plant from which there is route disposition in the marketing area and who:

(1) Receives no fluid milk products during the month from dairy farmers;

(2) Receives no fluid milk products during the month from any other source except by transfer from a pool plant; and

(3) Receives no other source milk for reconstitution into fluid milk products.

(b) Such person must provide proof satisfactory to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the volume of fluid milk products (excluding transfers from pool plants) and the operation of the processing and distribution business is the personal enterprise of and at the personal risk of such person.

§ 1137.11 [Reserved]

§ 1137.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk eligible for distribution as Grade A milk in compliance with the fluid milk product requirements of a duly constituted health authority, whose milk is received

at a pool plant or diverted to a nonpool plant that is not a producer-handler plant within the limits set forth in paragraph (a)(1) and (2) of this section:

(1) A cooperative association may divert for its account the milk of any member-producer from whom at least three deliveries of milk are received during the month at a distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of its member producer milk received at distributing pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month the agreement is effective. This request shall specify the basis for assigning over-diverted milk to the producer members of each cooperative according to a method approved by the market administrator.

(2) A handler in his capacity as the operator of a distributing pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section, from whom at least three deliveries of milk are received during the month at his distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk.

(3) For the purposes of the requirements of § 1137.7, milk diverted for the account of the operator of a distributing pool plant, except an operator which is also a cooperative association diverting milk in the same month pursuant to paragraph (a)(1) of this section, shall be included in the receipts of the pool plant from which diverted.

(4) For purposes of location adjustments pursuant to §§ 1137.52 and 1137.75, milk diverted to a nonpool plant shall be considered to have been received at the location of the nonpool plant to which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1137.44(a)(8)(iii) and the corresponding step of § 1137.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1137.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer.

(a) With respect to receipts at a pool plant for which the handler operating such plant is to be responsible pursuant to § 1137.60:

(1) Received directly from such producer; and

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions provided in § 1137.12;

(b) With respect to the additional receipts of a cooperative association:

(1) For which the cooperative association is the handler pursuant to § 1137.9(b), subject to the limitations and conditions provided in § 1137.12; and

(2) For which the cooperative association is the handler pursuant to § 1137.9(c).

§ 1137.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1137.40(b)(1) from any source other than producers, handlers described in § 1137.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1137.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1137.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1137.40(b)(1)) for which the handler fails to establish a disposition.

§ 1137.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1137.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1137.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1137.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of

February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1137.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1137.51a:

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

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

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

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

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

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

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

Handler Reports

§ 1137.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1137.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1137.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1137.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1137.31 Payroll reports.

(a) On or before the 23rd day after the end of each month, each handler described in § 1137.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1137.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1137.32 Other reports.

(a) On or before the seventh day after the end of each month, each handler described in § 1137.9 (a) and (b) who diverted milk to nonpool plants shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(1) The name of the plant to which diverted;

(2) The name of the individual dairy farmers so diverted;

(3) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted; and

(4) The number of days milk of the dairy farmer was received at a pool plant of the diverting order.

(b) In addition to the reports required pursuant to §§ 1137.30 and 1137.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1137.40 Classes of utilization.

Except as provided in § 1137.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1137.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1137.15; and

(6) In shrinkage assigned pursuant to § 1137.41(a) to the receipts specified in § 1137.41(a)(2) and in shrinkage specified in § 1137.41 (b) and (c).

§ 1137.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1137.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph in amounts equal to 50 times the maximum amount that may be computed pursuant to paragraph (b) (1) through (6) of this section; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1137.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1137.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank

samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1137.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Except as provided in paragraph (e) of this section, skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1137.44(a)(7) or the corresponding step of § 1137.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1137.44(a) (11) or (12) or the corresponding steps of § 1137.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1137.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, tranfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1137.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a cooperative association to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1137.9(c) and from a pool plant operated by a cooperative association to another handler's pool plant shall be classified pursuant to § 1137.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1137.60.

§ 1137.43 General classification rules.

In determining the classification of producer milk pursuant to § 1137.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1137.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1137.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1137.40, 1137.41, and 1137.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1137.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1137.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1137.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1137.9(a) for each of his pool plants separately the classification of producer milk and milk subject to the provisions of § 1137.42(e) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1137.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1137.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1137.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1137.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1137.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated top Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not

subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk subject to the provisions of § 1137.42(e), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1137.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received. For purposes of this subtraction at a pool plant operated by a cooperative association, skim milk in fluid milk products transferred to the pool plant of another handler shall be added to the remaining pounds of skim milk in each class pro rata to the market average utilization announced pursuant to § 1137.45(a):

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1137.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler). For purposes of such computation at a pool plant of a cooperative association, the pounds remaining shall include any remainder of the quantity added pursuant to paragraph (a)(11) of this section;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to §1137.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk subject to the provisions of § 1137.42(e), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk subject to the provisions of § 1137.42(e) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1137.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1137.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant, the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in acccordance with the total utilization of producer milk by such handler.

Class Prices

§ 1137.50 Class prices.

Subject to the provisions of § 1137.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.30.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1137.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1137.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1137.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1137.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1137.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1137.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1137.19 and yield factors in effect

under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

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

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

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

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

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

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

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

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

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

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

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

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

§ 1137.52 Plant location adjustments for handlers.

(a) For milk received from producers and from handlers described in § 1137.9(c) at a pool plant, or diverted to a nonpool plant, located more than 50 miles by shortest highway distance as measured by the market administrator, from the plant to the nearest County Courthouse located in Denver, Colo.; Pueblo, Colo.; or Colorado Springs, Colo., and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1137.50(a) shall be reduced by 10 cents if such plant is located more than 50 miles but not more than 75 miles from such courthouse, and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 75 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1137.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1137.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1137.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1137.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1137.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1137.9(b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk subject to the provisions of § 1137.42(e) that were classified in each class pursuant to §§ 1137.43(a) and 1137.44(c) by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1137.44(a)(14) and the corresponding step of § 1137.44(b) by the respective class prices, as adjusted by the butterfat differential specified in 1137.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(9) and the corresponding step of § 1137.44(b); and

(2) The the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1137.44(a)(9) and the corresponding step of § 1137.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

(d) Add the amount obtained from multiplying the difference between the

Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(7)(i) through (iv) and the corresponding step of § 1137.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(7)(v) and (vi) and the corresponding step of § 1137.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(11) and the corresponding step of § 1137.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1137.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1137.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1137.60 for all handlers who filed the reports prescribed by § 1137.30 for the month and who made the payments pursuant to §§ 1137.71 and 1137.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1137.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1137.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants at which no location adjustment is applicable.

§ 1137.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1137.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1137.71, 1137.76, and 1137.77, subject to the provision of § 1137.78 and out of which he shall make all payments pursuant to §§ 1137.72 and 1137.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1137.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1137.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1137.75, of such handler's receipts of producer milk and milk subject to the provisions of § 1137.42(e). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1137.73(c), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1137.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1137.72 Payments from the producer-settlement fund.

On or before the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1137.71(a)(2) exceeds the amount computed pursuant to § 1137.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1137.73 Payments to producers and to cooperative associations.

Except as provided in paragraphs (b) and (c) of this section, each handler except a cooperative association shall make payment as specified in paragraph (a) of this section to each producer from whom milk is received:

(a)(1) On or before the last day of each month, to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, a partial payment with respect to milk received during the first 15 days of the month at the Class III price for the preceding month.

(2) On or before the 16th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per

hundredweight pursuant to § 1137.61, as adjusted by the butterfat differential specified in § 1137.74 and location adjustments specified in § 1137.75, plus or minus adjustments for errors made in previous payments to such producers and less:

(i) Payments made pursuant to paragraph (a)(1) of this section;

(ii) Deductions for marketing services pursuant to § 1137.86; and

(iii) Proper deductions authorized in writing by such producer: *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to § 1137.72 he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator.

(b) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the second day prior to the date of payment to producers in lieu of payments pursuant to paragraph (a) of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(c) For milk received from a pool plant operated by a cooperative association or from a cooperative association that is a handler pursuant to § 1137.9(c), each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) A final settlement equal to the value of such milk at the uniform price pursuant to § 1137.61, as adjusted pursuant to §§ 1137.74 and 1137.75, less payment made pursuant to paragraph (c)(1) of this section.

(d) In making the payments to producers pursuant to paragraphs (a)(2) and (b) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount, or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

§ 1137.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1137.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant from producers, in bulk from pool plants operated by cooperative associations, and from handlers described in § 1137.9(c) may be reduced by the amount of the location adjustment applicable at the location of the pool plant at which such milk was first physically received from producers, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of such nonpool plant, each at the rates set forth in § 1137.52; and

(b) For the purposes of computations pursuant to §§ 1137.71 and 1173.72 the uniform price shall be adjusted at the rates set forth in § 1137.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1137.76 Payments by the handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1137.30(b) and 1137.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not another order plant to the extent that the equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3)

of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1137.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1137.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1137.60 for such handler shall include, in lieu of the value of other source milk specified in § 1137.60(f) less the value of such other source milk specified in § 1137.71(a)(2)(ii), a value of milk determined pursuant to § 1137.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1137.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1137.30(b) and 1137.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1137.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1137.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1137.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1137.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in moneys due a producer, a cooperative association, or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1137.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1137.71 or 1137.77 relative to payments to the producer settlement fund shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

Administrative Assessment and Marketing Service Deduction

§ 1137.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk subject to the provisions of § 1137.42(e) but excluding such milk in the case of a cooperative association which is a handler of milk subject to the provisions of § 1137.42(e)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1137.44(a) (7) and (11) and the corresponding steps of § 1137.44(b), except such other source milk that is excluded from the computations pursuant to § 1137.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1137.76(a)(2).

§ 1137.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1137.73, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 14th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the

deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 16th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

Subpart—Order Regulating Handling

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Administrative Assessment and Marketing Service Deduction

1134.85 Assessment for order administration.
1134.86 Deduction for marketing services.

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

General Provisions

§ 1134.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1134.2 Western Colorado marketing area.

"Western Colorado marketing area", hereinafter called the "marketing area", means all the territory within the outer boundaries of the following counties in the State of Colorado:

Delta, Garfield, Mesa, Montrose.

§ 1134.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including a delivery by a vendor or a sale from a plant or plant store) of any fluid milk product classified as Class I milk, other than a delivery to a pool plant or a delivery in bulk to a nonpool plant.

§ 1134.4 [Reserved].

§ 1134.5 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are pasteurized or packaged and from which there is route disposition of Grade A fluid milk products in the marketing area.

§ 1134.6 Supply plant.

"Supply plant" means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a pool distributing plant.

§ 1134.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which during the month fluid milk products are processed or packaged and from which:

(1) An amount equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as route disposition, except filled milk; and

(2) Ten percent or more of such receipts, or 2,000 pounds per day, whichever is less, are disposed of as route disposition, except filled milk, in the marketing area.

(b) Any plant, hereinafter referred to as a "supply pool plant" from which during the month 50 percent of its dairy farm supply of Grade A milk is moved in the form of fluid milk products, except filled milk, to distributing pool plants. Any supply plant which has qualified as a pool plant in each of the months of September through February shall be a pool plant in each of the following months of March through August, unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any of the following months of March through August unless it fulfills the shipping requirements of this paragraph for such month(s).

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Any distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (a) of this section and there is more route disposition (except filled milk) in this marketing area than in the marketing area defined under such other order;

(3) Any plant qualified pursuant to paragraph (b) of this section for any portion of March through August, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act; and

(4) Any distributing plant from which there is less than an average of 200 pounds of route disposition per day, except filled milk, in the marketing area during the month.

§ 1134.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant.

The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are moved during the month to a pool plant.

§ 1134.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1134.12;

(c) A cooperative association with respect to milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by the association or by a hauler under contract to the association;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1134.7(c); and

(g) A vendor (any person who does not operate a plant described in paragraph (a), (d), (e) or (f) of this section but who engages in the business of receiving fluid milk products for resale and distributes to retail and wholesale outlets, via a mobile delivery vehicle, packaged fluid milk products received from such a plant).

§ 1134.10 Producer-handler.

"Producer-handler" means any person who is an individual, partnership or corporation and who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the conditions set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is his sole risk and under his complete and exclusive management and control;

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control; and

(3) Only he and no other person (except a member of his immediate family, or a stockholder in the case of a corporate farm) employed on such farm(s) own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which thee is route disposition during the month in the marketing area: *Provided,* That:

(1) No fluid milk products are received at such plant or by him at any other location except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) From pool plants or other order plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of as route disposition or at stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1134.11 [Reserved]

§ 1134.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the inspection requirements for fluid consumption of a duly constituted health authority, whose milk is received at a pool plant or diverted to a nonpool plant that is not a producer-handler plant within the limits set forth in paragraph (a)(1) and (2) of this section:

(1) A cooperative association may divert for its account the milk of any member-producer from whom not less than 3 days' production was received during the month at a distributing pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, and August and 30 percent in other months of its member-producer milk received at pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is effective. Such request shall specify the basis for assigning overdiverted milk to the producer-members of each cooperative association, at a time and in a manner approved by the market administrator.

(2) A handler may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section, from whom not less than 3 days' production was received during the month at the pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, and August and 30 percent in other months of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler, at a time and in a manner approved by the market administrator, shall specify the dairy farmers whose milk is ineligible as producer milk.

(3) For the purpose of the requirements of § 1134.7, milk diverted for the account of the operator of a distributing pool plant, except an operator who is also a cooperative association diverting milk in the same month pursuant to paragraph (a)(1) of this section, shall be included in the receipts of the pool plant from which diverted.

(4) For purpose of location adjustments pursuant to §§ 1134.52 and 1134.75, milk diverted to a nonpool plant shall be considered to have been

received at the location of the pool plant from which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1134.44(a)(8)(iii) and the corresponding step of § 1134.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1134.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer.

(a) With respect to receipts at a pool plant for which the handler operating such plant is to be responsible pursuant to § 1134.60:

(1) Received directly from such producer; and

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions provided in § 1134.12;

(b) With respect to the additional receipts of a cooperative association:

(1) For which the cooperative association is the handler pursuant to § 1134.9(b), subject to the limitations and conditions provided in § 1134.12; and

(2) For which the cooperative association is the handler pursuant to § 1134.9(c). If the milk received at a pool plant from a handler described in § 1134.9(c) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler described in § 1134.9(c) at the location of the pool plant.

§ 1134.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1134.40(b)(1) from any source other than producers, handlers described in § 1134.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1134.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1134.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1134.40(b)(1)) for which the handler fails to establish a disposition.

§ 1134.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1134.16 Fluid cream product.'

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent of more butterfat, with or without the addition of other ingredients.

§ 1134.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1134.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of, or marketing milk or its products for its members; and (c) Has its entire activities under the control of its members.

§ 1134.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1134.51a:

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

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

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

by the Director of the Dairy Division as follows:

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

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

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

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

Handler Reports

§ 1134.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1134.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1134.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1134.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1134.31 Payroll reports.

(a) On or before the 23rd day after the end of each month, each handler described in § 1134.9(a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1134.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1134.32 Other reports.

(a) On or before the seventh day after the end of each month, each handler described in § 1134.9(a) and (b) who diverted milk to nonpool plants shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(1) The name of the plant to which diverted;

(2) The name of the individual dairy farmers so diverted;

(3) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted; and

(4) The number of days milk of the dairy farmer was received at a pool plant of the diverting order.

(b) In addition to the reports required pursuant to §§ 1134.30 and 1134.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1134.40 Classes of utilization.

Except as provided in § 1134.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1134.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1134.15; and

(6) In shrinkage assigned pursuant to § 1134.41(a) to the receipts specified in § 1134.41(a)(2) and in shrinkage specified in § 1134.41 (b) and (c).

§ 1134.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1134.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section, the maximum pounds computed pursuant to such paragraph divided by 0.02; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1134.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the slim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the slim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1134.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determine from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1134.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Except as provided in paragraph (e) of this section, skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The slim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1134.44(a)(12) and the corresponding step of § 1134.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1134.44(a)(7) or the corresponding step of § 1134.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1134.44(a) (11) or (12) or the corresponding steps of § 1134.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in

the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1134.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1134.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a cooperative association to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1134.9(c) and from a pool plant operated by a cooperative association to another handler's pool plant shall be classified pursuant to § 1134.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1134.60.

§ 1134.43 General classification rules.

In determining the classification of producer milk pursuant to § 1134.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1134.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1134.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1134.40, 1134.41, and 1134.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1134.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1134.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1134.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1134.9(a) for each of his pool plants separately the classification of producer milk and milk subject to the provisions of § 1134.42(e) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1134.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1134.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1134.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1134.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1134.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk subject to the provisions of § 1134.42(e), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1134.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1134.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraphs (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1134.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk subject to the provisions of § 1134.42(e), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk subject to the provisions of § 1134.42(e) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph

(a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1134.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1134.44(a)(12) and the corresponding step of § 1134.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1134.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant, the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1134.50 Class prices.

Subject to the provisions of § 1134.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.00.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1134.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1134.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1134.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1134.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1134.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1134.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1134.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

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

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

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

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

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

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

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

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

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

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

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

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

§ 1134.52 Plant location adjustments for handlers.

(a) For milk received from producers and from handlers described in § 1134.9(c) at a pool plant, located more than 100 miles by shortest highway distance as measured by the market administrator, from the courthouse in Grand Junction, Colorado, and which is classified as Class I milk or assigned Class I location adjustment credit under paragraph (b) of this section, the price computed pursuant to § 1134.50(a) shall be reduced by 15 cents if such plant is located more than 100 miles but not more than 110 miles from such courthouse, and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1134.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1134.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1134.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1134.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1134.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1134.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk subject to the provisions of § 1134.42(e) that were classified in each class pursuant to §§ 1134.43(a) and 1134.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1134.44(a)(14) and the corresponding step of § 1134.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1134.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1134.44(a)(9) and the corresponding step of § 1134.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(7) (i) through (iv) and the corresponding step of § 1134.44(b), excluding receipts of bulk fluid cream products from another order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(7) (v) and (vi) and the corresponding step of § 1134.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated suppy plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(11) and the corresponding step of § 1134.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from mulitplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1134.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1134.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1134.60 for all handlers who filed the reports prescribed in § 1134.30 for the month and who made the payments pursuant to §§ 1134.71 and 1134.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1134.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1134.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1134.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1134.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1134.71, 1134.76, and 1134.77, subject to the provision of § 1134.78 and out of which he shall make all payments pursuant to §§ 1134.72 and 1134.77: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1134.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1134.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1134.75, of such handler's receipts of producer milk and milk subject to the provisions of § 1134.42(e). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1134.73(a), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received (not to be less than the Class III price) of other source milk for which a value is computed pursuant to § 1134.60(f).

(b) On or before the 25th day after the end of the month each person who operated an order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable to the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(c) Each vendor shall pay the market administrator on or before the 25th day after the end of the month at the difference between the value of the skim milk and butterfat in fluid milk products received from a producer-handler during the month at the Class I price applicable at the location of the producer-handler's plant (but not less than the Class III price) and its value at the Class III price subject to the following conditions:

(1) The quantities of skim and butterfat milk products on which payment shall be made pursuant to this section shall not exceed the vendor's Class I disposition in the marketing during the month; and

(2) This section shall not apply to a vendor whose total Class I disposition is obtained from a producer-handler, or whose total receipts and disposition of fluid milk products are considered as a part of the receipts and disposition of the producer-handler pursuant to § 1134.10(b)(3).

§ 1134.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1134.71(a)(2) exceeds the amount computed pursuant to § 1134.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as funds are available.

§ 1134.73 Payments to producers and to cooperative associations.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(a) Not later than the last day of the month, to each producer from whom he received milk during the first 18 days of the month, a partial payment for the milk received during the first 15 days of the month, at the Class III price for the preceding month.

(b) Not later than the 16th day of the month, for milk received during the preceding month, an amount computed at not less than the uniform price, per hundredweight, pursuant to § 1134.61, as adjusted by the butterfat differential specified in § 1134.74, location adjustment specified in § 1134.75 and adjustments for errors made in previous payments minus:

(1) Payments made pursuant to paragraph (a) of this section;

(2) Deductions for marketing services pursuant to § 1134.86; and

(3) Deductions approved by the market administrator and authorized in writing by the producer. If the handler has not received full payment for the delivery period from the market administrator pursuant to § 1134.72, he may reduce his total payments to all producers uniformly by the amount owing to him by the market administrator. The handler shall, however, complete all payments not later than the 16th day of the month following receipt of the balance from the market administrator.

(c)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk, and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim by the cooperative association, each handler shall pay to the cooperative association on or before the second day preceding the dates set out in paragraphs (a) and (b) of this section an amount equal to the sum of the individual payments otherwise payable to the producer members of such organization. This payment shall be made for all milk of such producer certified by the cooperative association as a member, beginning the first day of the month following receipt of the certification and ending the last day of the month next preceding the date on which a written notice from the cooperative association terminating the membership was received.

(2) A copy of the request for payment, promise to reimburse, and certified list of members, shall be filed simultaneously with the market administrator. He may verify the information by auditing the records of the cooperative association. Exceptions to the accuracy of the membership certification, by a producer or by a handler, shall be made in writing to the market administrator for his determination.

(d) In making the payments to producers under paragraphs (b) and (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk, a supporting statement which shall show for each month;

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required under this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) For milk received from a pool plant operated by a cooperative association or from a handler described in § 1134.9(c), each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) A final settlement equal to the value of such milk at the uniform price, as adjusted pursuant to §§ 1134.74 and 1134.75, less payment made pursuant to paragraph (e)(1) of this section.

§ 1134.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1134.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant from producers, in bulk from a pool plant operated by a cooperative association, and from a handler described in § 1134.9(c) may be reduced by the amount of the location adjustment applicable at the location of the pool plant at which such milk was first physically received from producers, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of the pool plant from which diverted, each at the rates set forth in § 1134.52; and

(b) For purposes of computations pursuant to §§ 1134.71 and 1134.72 the uniform price shall be adjusted at the rates set forth in § 1134.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1134.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1134.30(b) and § 1134.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1134.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1134.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1134.60 for such handler shall include, in lieu of the value of other source milk specified in § 1134.60(f) less the value of such other source milk specified in § 1134.71(a)(2)(ii), a value of milk determined pursuant to § 1134.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1134.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1134.30(b) and 1134.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all

skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1134.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1134.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1134.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1134.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in moneys due a producer or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1134.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1134.71, 1134.76, 1134.77, 1134.85 and 1134.86 shall be increased 1 percent for each month or portion thereof beginning with the third day following the date by which such obligation was payable: *Provided,* That:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously made pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1134.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk subject to the provisions of § 1134.42(e) but excluding such milk in the case of a cooperative association which is a handler of milk subject to the provisions of § 1134.42(e)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1134.44(a) (7) and (11) and the corresponding steps of § 1134.44(b), except such other source milk that is excluded from the computations pursuant to § 1134.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1134.76(a)(2).

§ 1134.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1134.73, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 13th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) For producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 14th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deductions from each producer was computed.

PART 1136—MILK IN THE GREAT BASIN MARKETING AREA

Subpart—Order Regulating Handling

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1136.85 Assessment for order administration.
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Authority.—Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

General Provisions

§ 1136.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made part of this order.

Definitions

§ 1136.2 Great Basin marketing area.

"Great Basin marketing area" hereinafter called the "marketing area" means all the territory, including all government reservations and installations and all municipalities, within the places listed below:

Utah Counties

Box Elder, Cache (city of Logan only), Carbon, Daggett, Davis, Duchesne, Emery, Grand, Juab, Millard, Morgan, Salt Lake, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Weber.

Nevada Counties

Elko, White Pine.

Wyoming Counties

Uinta (town of Evanston only).

Idaho Counties

Bannock, Bear Lake, Bingham, Bonneville, Franklin, Jefferson, Madison.

§ 1136.3 Route disposition.

"Route disposition" means any disposition of fluid milk products (including through a vendor or disposition from a plant or plant store) classified as Class I milk, except in bulk form to fluid milk plants and except Class II and Class III milk disposition to plants which are not fluid milk plants.

§ 1136.4 [Reserved]

§ 1136.5 Fluid milk plant.

"Fluid milk plant" means a plant:

(a) In which milk or milk products (including filled milk) are processed or packaged and from which there is route disposition during the month in the marketing area, or

(b) In which milk is received or processed and from which milk or skim milk is shipped during the month to a plant described in paragraph (a) of this section.

§ 1136.6 [Reserved]

§ 1136.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A fluid milk plant from which not less than 50 percent in any month of September through February, not less than 45 percent in any month of March and April, and not less than 40 percent in any month of May through August of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant (excluding milk received at such plant from other order plants or dairy farms which is classified in Class III under this order and which is subject to the pricing and pooling provisions of another order issued pursuant to the Act) or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13 are disposed of as route disposition, and not less than 15 percent of such receipts are disposed of as route disposition in the marketing area.

(1) For the purpose of determining the qualification pursuant to this paragraph of a fluid milk plant pursuant to § 1136.5(a) operated by a cooperative association, producer milk which such cooperative association causes to be delivered to the pool plant of another handler or diverted therefrom shall be included with receipts of producer milk at such cooperative's plant and the quantity of such milk assigned to Class I pursuant to § 1136.45(d) shall be included as route disposition from such cooperative's plant;

(i) If such a cooperative association operates more than one fluid milk plant as defined in § 1136.5(a), such producer milk and Class I milk shall be included in the computation for whichever plant the cooperative association requests in writing to the market administrator; and

(ii) If no such written request is made, such producer milk and Class I milk shall be prorated among the plants; and

(2) If a handler operates more than one fluid milk plant, the combined receipts and fluid milk products disposition, except filled milk, of any such plants may be used as the basis for qualifying the respective plants pursuant to the preceding computations specified in this paragraph if a handler in writing so requests the market administrator.

(b) A fluid milk plant from which during the month fluid milk products, except filled milk, equal to not less than 50 percent of the total of receipts at the plant from dairy farmers meeting the inspection requirements described in § 1136.12, milk diverted pursuant to § 1136.13 by the handler operating the plant and other fluid milk products, except filled milk, qualified for distribution for fluid consumption received at the plant are shipped to a plant described in paragraph (a) of this section: *Provided,* That a plant which so qualifies in each of the months of August through January as a pool plant shall be a pool plant in each of the following months of February through July unless the operator requests in written notice to the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant; and

(3) Any plant described in paragraph (c)(3) (i) or (ii) of this section shall be exempt from paragraph (a) or (b) of this section, unless the Secretary determines otherwise, if it would be fully regulated subject to the classification and pooling provisions of another order issued pursuant to the Act if not so subject to this part:

(i) Any plant from which there is less route disposition, except filled milk, in the Great Basin marketing area than in the marketing area regulated pursuant to such other order if not so subject to this part; or

(ii) Any plant during the months of February through July which qualifies as a pool plant only pursuant to the proviso of paragraph (b) of this section.

§ 1136.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as

defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a fluid milk plant that is neither an other order plant, a producer-handler plant, nor an exempt plant from which there is route disposition in consumer-type packages or dispenser units (other than to a pool plant) in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant, a producer-handler plant nor an exempt plant from which fluid milk products qualified for fluid consumption are shipped during the month to a pool plant.

(e) "Exempt plant" means a governmental agency, Brigham Young University or any approved plant from which the total route disposition is to individuals or institutions for charitable purposes and is without remuneration from such individuals or institutions.

§ 1136.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1136.13;

(c) A cooperative association with respect to the milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association, if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it wishes to be the handler for the milk. In this case the milk is received from producers by the cooperative association;

(d) Any person who operates a partially regulated distributing plant; and

(e) Any other person who operates a fluid milk plant described in § 1136.5(a).

§ 1136.10 Producer-handler.

"Producer-handler" means any person who is an individual, partnership or corporation and who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the conditions set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is his sole risk and under his complete and exclusive management and control;

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control; and

(3) Only he and no other person (except a member of his immediate family or a stockholder in the case of a corporate farm) employed on such farm(s) own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which there is route disposition during the month in the marketing area: *Provided,* That:

(1) No fluid milk products are received at such plant or by him at any other location except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) From pool plants or other order plants in an amount that is not in excess of the larger of 3,000 pounds, or 5 percent of his Class I sales, during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive, or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of as route disposition or at stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1136.11 [Reserved]

§ 1136.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means a dairy farmer who produces milk in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this subpart, compliance with inspection requirements shall include production of milk acceptable for fluid consumption of agencies of the United States Government located in the marketing area) which milk is delivered to a pool plant during the month or diverted to a nonpool plant within the limits set forth in § 1136.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1136.44(a)(8)(iii) and the corresponding step of § 1136.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1136.13 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk from producers (in an amount determined by weights and measurements for individual producers, as taken at the farm in the case of milk moved from the farm in a tank truck) which is:

(a) Received from the producers at a pool plant but not including milk received from a handler described in § 1136.9(c);

(b) Received by a handler described in § 1136.9(c); or

(c) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant or an exempt plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the location of the plant to which diverted;

(2) Not less than 6 days' production of the producer whose milk is diverted is physically received at a pool plant;

(3) A cooperative association may divert for its account only the milk of member producers: *Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(4) The operator of a pool plant other than a cooperative association may divert for his account only the milk of producers who are not members of a cooperative association: *Provided,* That the total quantity of milk so diverted

that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(5) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to paragraph (c) (3) and (4) of this section. If the handler fails to make such designation, no milk diverted by him shall be producer milk; and

(6) Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their members if each association has filed such a request in writing with the market administrator on or before the 1st day of the month the agreement is effective. The request shall specify the basis for assigning over-diverted milk to the producer members of each cooperative association according to a method approved by the market administrator.

§ 1136.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(1) Receipts of fluid milk products and bulk products specified in § 1136.40(b)(1) from any source other than producers, handlers described in § 1136.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1136.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1136.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with other product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1136.40(b)(1)) for which the handler fails to establish a disposition.

§ 1136.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1136.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent of more butterfat, with or without the addition of other ingredients.

§ 1136.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1136.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales, or marketing milk or its products for its members; and

(c) To have its entire activities under the control of its members.

§ 1136.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1136.51a:

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

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

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

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

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

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

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey

powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Handler Reports

§ 1136.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1136.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1136.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1136.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1136.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1136.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1136.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1136.32 Other reports.

In addition to the reports required pursuant to §§ 1136.30 and 1136.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1136.40 Classes of utilization.

Except as provided in § 1136.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1136.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1136.15; and

(6) In shrinkage assigned pursuant to § 1136.41(a) to the receipts specified in § 1136.41(a)(2) and in shrinkage specified in § 1136.41 (b) and (c).

§ 1136.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1136.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1136.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1136.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1136.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1136.44(a)(12) and the corresponding step of § 1136.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1136.44(a)(7) or the corresponding step of § 1136.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1136.44(a) (11) or (12) or the corresponding steps of § 1136.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1136.40.

(c) *Transfers to producer-handlers and to exempt plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or an exempt plant shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant or an exempt plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1136.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator dertermines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a handler described in § 1136.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1136.9(c) to another handler's pool plant shall be classified pursuant to § 1136.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1136.60.

§ 1136.43 General classification rules.

In determining the classification of producer milk pursuant to § 1136.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1136.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1136.9(b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1136.40, 1136.41, and 1136.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1136.9(b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1136.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1136.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1136.9(a) for each of his pool plants separately the classification of producer milk and milk received from a handler described in § 1136.9(c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1136.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1136.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1136.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1136.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1136.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order or from an exempt plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1136.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1136.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph

exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1136.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1136.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1136.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1136.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1136.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1136.44(a)(12) and the corresponding step of § 1136.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1136.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant, the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the

purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1136.50 Class prices.

Subject to the provisions of § 1136.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.90.

(b) *Class II price* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1136.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1136.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1136.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1136.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1136.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1136.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section.

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1136.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

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

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

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

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

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

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

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

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

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

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

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

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

§ 1136.52 Plant location adjustments for handlers.

(a) For milk which is received from producers at a pool plant, or is diverted therefrom, or is delivered by a handler described in § 1136.9(c) to a pool plant and which is assigned to Class I milk, subject to the limitations pursuant to paragraph (b) of this section, the price computed pursuant to § 1136.50(a) shall be reduced as follows:

Distance (miles)	Rate per hundred-weight (cents)
150 but not more than 160	22.0
For each additional 10 miles or fraction thereof in excess of 160	1.5

Such distance to be the shortest hard-surfaced highway distance as determined by the market administrator from the plant to the County Courthouse of Salt Lake County, Utah;

(b) In applying such credits to transfers of fluid milk products between pool plants, a Class I location adjustment credit for the transferor-plant shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) From the pounds of skim milk remaining in Class I at the transferee-plant after the computations are made pursuant to § 1136.44(a)(12) subtract the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1136.9(c);

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid

milk products from other pool plants, first to the transferor-plants at which no location adjustment applies and then in sequence beginning with the plant at which the least location adjustment applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plant pursuant to paragraph (b)(2) of this section by the applicable adjustment rate for each such plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1136.42(a), in sequence beginning with the plant at which the least location adjustment applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable location adjustment rate for such plant. If the aggregate of this computation for all plants having the same location adjustment rate exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers received from such plants; and

(5) Class I location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b)(1) through (4) of this section.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1136.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1136.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1136.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1136.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1136.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1136.9(c) that were classified in each class pursuant to §§ 1136.43(a) and 1136.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1136.44(a)(14) and the corresponding step of § 1136.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1136.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1136.44(a)(9) and the corresponding step of § 1136.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(7) (i) through (iv) and the corresponding step of § 1136.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(7) (v) and (vi) and the corresponding step of § 1136.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(11) and the corresponding step of § 1136.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1136.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1136.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1136.60 for all handlers who filed the reports prescribed by § 1136.30 for the month and who made the payments pursuant to § 1136.71 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1136.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1136.60(f); and

(e) Subtract not less than 5 cents nor more than 6 cents per hundredweight. The result shall be known as the uniform price.

§ 1136.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1136.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1136.71, 1136.76, and 1136.77, subject to the provision of § 1136.78 and out of which he shall make all payments pursuant to §§ 1136.72 and 1136.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1136.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1136.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1136.75, of such handler's receipts of producer milk and milk received from a handler described in § 1136.9(c). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1136.73(d), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1136.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1136.72 Payments from the producer-settlement fund.

On or before the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1136.71(a)(2) exceeds the amount computed pursuant to § 1136.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1136.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraphs (b), (d), or (e) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than 1.2 times the Class III price for the preceding month; and

(2) On or before the 17th day of the following month, for producer milk received during the month, at not less than the uniform price pursuant to § 1136.61 adjusted by the butterfat differential specified in § 1136.74 and location adjustment specified in § 1136.75, subject to the following adjustments:

(i) Less deductions for marketing services pursuant to § 1136.86;

(ii) Less the payment made pursuant to paragraph (a)(1) of this section;

(iii) Plus or minus adjustments for errors made in previous payments to such producer and proper deductions authorized in writing by such producer; and

(iv) If by the date specified, such handler has not received full payment from the market administrator pursuant to § 1136.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which is authorized by its members to collect payment for their milk and which has requested such payment from any handler in writing and has so notified the market administrator, payment for milk received during the month by such handler(s) from producer-members of such association shall be accomplished as follows:

(1) On or before the third day prior to the last day of each month such handler shall pay to such cooperative association not less than 1.2 times the Class III price for the preceding month for the hundredweight of such milk received during the first 15 days of the month; and

(2) On or before the 16th day of the following month such handler shall pay to such cooperative association the sum of the payments computed at the appropriate uniform price with respect to deliveries by producer-members of such association to handlers from whom payments have been requested, less the amounts of payments made to such association pursuant to paragraph (b)(1) of this section, and less the amount retained by handlers as authorized deductions.

(c) Each handler who received milk from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association and to the market administrator on or before the 7th day of the following month, as follows:

(1) The total pounds of milk received during the month, and if requested, the pounds received from each member-producer;

(2) The amount of payment made pursuant to paragraph (b)(1) of this section and the quantity of milk to which such payment applied; and

(3) The amount or rate and nature of any proper deductions authorized to be made from payments.

(d) Each handler shall pay a cooperative association for milk received by him from such cooperative in its capacity as a handler described in § 1136.9(c) as follows:

(1) On or before the second day prior to the last day of each month, for milk received during the first 15 days of the month an amount per hundredweight not less than 1.2 times the Class III price for the preceding month; and

(2) On or before the 15th day of the following month for milk received during the month, not less than the value of such milk at the applicable uniform price, less payment made pursuant to paragraph (d)(1) of this section.

(e) Each handler shall pay a cooperative association for milk

received by him from a pool plant operated by such association as follows:

(1) On or before the second day prior to the end of each month, for milk received during the first 15 days of the month an amount per hundredweight not less then 1.2 times the Class III price for the preceding month; and

(2) On or before the 15th day of the following month for milk received during the month, not less than an amount computed by multiplying the minimum prices for milk in each class subject to the applicable location adjustment provided in § 1136.52 and the butterfat differential provided by § 1136.74, by the hundredweight of milk in each class pursuant to § 1136.44, such amount to be reduced in the amount of the payment made pursuant to paragraph (e)(1) of this section.

§ 1136.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1136.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1136.52; and

(b) For purposes of computations pursuant to §§ 1136.71 and 1136.72 the uniform price shall be adjusted at the rates set forth in § 1136.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1136.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1136.30(b) and § 1136.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1136.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1136.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1136.60 for such handler shall include, in lieu of the value of other source milk specified in § 1136.60(f) less the value of such other source milk specified in § 1136.71(a)(2)(ii), a value of milk determined pursuant to § 1136.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1136.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1136.30(b) and 1136.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1136.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1136.74, for milk received at the plant during the month that would have been producer

milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1136.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1136.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler; (b) a handler from the market administrator; or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1136.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1136.71, 1136.76, 1136.77 and 1136.85, shall be increased 1 percent for each month or portion thereof beginning with the third day following the date by which such obligation was payable: *Provided,* That:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously made pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1136.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk received from a handler described in § 1136.9(c) but excluding in the case of a cooperative association which is a handler pursuant to § 1136.9(c), milk which was received at the pool plant of another handler) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1136.44(a) (7) and (11) and the corresponding steps of § 1136.44(b), except such other source milk that is excluded from the computations pursuant to § 1136.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1136.76(a)(2).

§ 1136.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk pursuant to § 1136.73, (other than milk of his own production) shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 14th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members. On or before the 15th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

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

Effective date: November 1, 1982.

Signed at Washington, D.C., on September 27, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-26955 Filed 9-29-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ASW-61; Amdt. 39-4467]

Airworthiness Directives; Boeing Vertol Model 234 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires initial and repetitive inspections and replacement as necessary of the main rotor hubs on Boeing Vertol Model 234 series helicopters. The AD is prompted by a report of a structural fatigue crack in a main rotor hub which could result in failure of the rotor hub and subsequent loss of control of the helicopter.

DATE: Effective: October 15, 1982.

Compliance required within the next 60 hours after the effective date of this AD unless already accomplished for all main rotor hubs with more than 700 hours' time in service.

ADDRESSES: The applicable service information may be obtained from Boeing Airplane Company, Vertol Division, Boeing Center, P.O. Box 16858, Philadelphia, Pennsylvania 19142. These documents may be examined at the office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106, or at the Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Joseph E. Chrastil, ANE-172, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Valley Stream, New York 11581, telephone No. 212 995-2842.

SUPPLEMENTARY INFORMATION: There have been reports of structural fatigue cracks in the splined area of two forward main rotor hubs on two Boeing Vertol Model 234 helicopters which could have caused rotor hub failure and subsequent loss of the helicopters. Total time in service for the cracked hubs was

at 1027 and 1429 hours. Since this condition is likely to exist or develop on other helicopters of the same type design, an Airworthiness Directive is being issued which requires inspection of the main rotor hubs for cracks and replacement as necessary on Boeing Vertol Model 234 series helicopters.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

There are no U.S. registered aircraft affected. However, in support of the U.S. Type Certificate, the FAA is issuing this AD.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Boeing Airplane Company, Vertol Division: Applies to Boeing Vertol Model 234 series helicopters certificated in all categories equipped with main rotor hubs, PN's 114R2050–17, –18, –23, and–24. Compliance is required as indicated unless already accomplished.

To inspect the main rotor hubs for cracks, within the next 60 hours' time in service from the effective date of this AD, or before the accumulation of 700 hours' time in service on the main rotor hubs, whichever comes later, accomplish the following:

(a) Remove the hub retaining nut and washer and inspect for a height difference between the top of the shaft spline up to the rotor hub upper surface. The hub upper surface must be a minimum of 0.015 inches above the rotor shaft spline.

(b) Remove the rotor hubs from the aircraft and conduct an eddy current inspection for cracks on the bottom surface of the hub from the splines to a distance one inch out from the splines. Inspect the lower hub surface described above and the splined area from the lower surface upward for 1.75 inches using dye penetrant.

(c) Ensure that the washer between the main rotor shaft nut and main rotor hub is installed and torque the main rotor hub nut to the manufacturer's specifications as shown in the Boeing Vertol 234 Maintenance Manual.

(d) After the initial inspections of paragraphs (a), (b) and (c), repeat the main rotor hub inspections of paragraphs (b) and (c) in intervals not to exceed 125 hours' additional time in service from the last inspection.

(e) Remove from service hubs having cracks and replace with a serviceable part prior to further flight.

(f) Boeing Vertol Service Bulletin Number 234–65–1026 applies to these inspections.

(g) An equivalent method of compliance with this AD may be approved by the Manager, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York 11581.

This amendment becomes effective October 15, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation that is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas on September 17, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82–26973 Filed 9–29–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–CEF–4–AD; Amendment 39–4468]

Airworthiness Directives; British Aerospace Model HP 137 Jetstream MK 1 and Series 200 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to British Aerospace Model HP 137 Jetstream Mk 1 and Series 200 airplanes which requires visual inspection and non-destructive testing (NDT) of the main landing gear (MLG) attachment fittings and supporting structure for loose bolts and fatigue cracks. Loose bolts have been found at the MLG hinge fitting attach points and cracks have been detected in the hinge fitting and its support angle. These conditions if not detected and corrected, may reduce the structural integrity of the MLG and allow fuel leakage.

EFFECTIVE DATE: October 7, 1982.

Compliance: As prescribed in the body of the AD.

ADDRESSES: British Aerospace Jetstream Service Bulletins 7/5 dated 31 March 1982 and 7/8 dated 7 May 1982, with Revision 1 dated 20 May 1982, applicable to this AD may be obtained from British Aerospace Public Limited Company, Aircraft Group, Scottish Division, Prestwick Airport, Scotland KA9 2RW. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: C. Christie, Manager, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belguim, or P. Cormaci, Manager, Foreign FAR 23 Section, ACE–109, Central Region, FAA 601 E. 12th Street, Kansas City, MO 64106, telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA) of the United Kingdom has notified the FAA of certain adverse service on British Aerospace Model HP 137 Jetstream MK 1 and Series 200 airplanes. Specifically, there have been several occurrences where the bolts which secure the MLG hinge fitting to the mainplane auxiliary and rear spars at wing station 110, have become loose and caused fuel leakage. In extreme cases of looseness, the holes in the hinge fitting and wing structure have become elongated with a consequent reduction in the strength of the attachment of the hinge fitting. In addition, cracks have developed in the company's fatigue test specimen aircraft at the MLG hinge fitting support angle and the MLG hinge fitting at the auxiliary spar web. If either condition is allowed to go unrepaired, it could compromise the structural integrity of the aircraft. Also, the fuel leakage accompanying the loose bolts may create a fire hazard. The manufacturer has made available in its Service Bulletins 7/5 and 7/8 Revision 1, instructions for inspection and if necessary, repair or replacement of the MLG hinge fitting, support angles and attach bolts. The CAA has made these inspections and repair or replacement mandatory by service bulletin.

The FAA has determined that the above described unsafe conditions may exist in other airplanes of the same type design. Accordingly, an AD is being issued requiring inspection and repair of British Aerospace Model HP 137 Jetstream MK 1 and Series 200 airplane MLG hinge fittings and attach points per

British Aerospace Service Bulletins 7/5 and 7/8 Revision 1.

Since an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR Section 39.13) is amended by adding the following new AD.

British Aerospace: Applies to Model HP 137 Jetstream MK 1 and Series 200 airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent fuel leakage and detect hinge fitting support angle fatigue cracks:

(a) Within the next 50 landings, after the effective date of this AD:

(1) Inspect the MLG hinge fitting and attachment bolts in accordance with British Aerospace Service Bulletin No. 7/5 dated 31 March 1982.

(2) If the inspection accomplished in accordance with paragraph (a)(1) of this AD reveals no unsatisfactory conditions per the criteria in the service bulletin, return the aircraft to service and thereafter repeat the inspections specified in paragraph (a)(1) of this AD at intervals not exceeding 200 landings.

(3) If the inspection accomplished in accordance with paragraph (a)(1) of this AD reveals unsatisfactory conditions in accordance with the criteria in the service bulletin, prior to further flight perform repairs in accordance with instructions contained in the service bulletin and within the next 200 landings incorporate British Aerospace Modification No. 5174.

(4) The inspections required by paragraphs (a)(1) and (a)(2) of this AD may be discontinued upon incorporation of British Aerospace Modification No. 5174.

(b) Prior to the accumulation of 4000 landings or on airplanes already having 4000 landings within the next 50 landings after the effective date of this AD:

(1) Using a strong light and 8 power lens, visually inspect the MLG hinge fitting support angles for cracks in accordance with British Aerospace Bulletin No. 7/8 dated 7 May 1982, as revised by Revision 1 dated 20 May 1982, paragraphs 3.2 and 3.3.

(2) If no cracks are found, return the aircraft to service and thereafter repeat the inspection required by paragraph (b)(1) of this AD at intervals not exceeding 200 landings.

(3) If cracks are found emanating from either end of the support angle, but which have propagated no further than the tooling holes, return the aircraft to service and thereafter repeat the inspection required by paragraph (b)(1) of this AD at intervals not exceeding 200 landings.

(4) If cracks are found extending beyond the tooling hole, prior to further flight, replace the support angle with a serviceable support angle of the same part number.

(5) The inspections required by paragraph (b)(1) of this AD may be discontinued until the replacement angle has accumulated 4000 landings.

(c) Prior to the accumulation of 4000 landings or on airplanes already having 4000 landings, within the next 50 landings after the effective date of this AD:

(1) Using a strong light and 8 power lens, visually inspect the MLG hinge fitting at the auxiliary spar web for cracks in accordance with British Aerospace Service Bulletin No. 7/8 dated 7 May 1982, as revised by Revision 1 dated 20 May 1982, paragraphs 3.2 and 3.7.

(2) If no cracks are found, return the aircraft to service and within the next 25 landings, conduct the inspection required by paragraph (d) of this AD.

(3) If crack indications are found, confirm these indications and if required, prior to further flight replace the MLG hinge fitting in accordance with paragraph (d) of this AD.

(d) Conduct an NDT inspection of the MLG hinge fitting per British Aerospace Service Bulletin No. 7/8 dated 7 May 1982, as revised by Revision 1 dated 20 May 1982, paragraphs 3.10 through 3.12.

(1) If cracks are found, prior to further flight, replace the MLG hinge fitting with a new fitting of the same part number.

(2) If no cracks are found, return the aircraft to service and repeat the NDT inspection at intervals not to exceed 200 landings.

(3) Inspections required by paragraph (c) and (d) of this AD are not required on new fittings until they have accumulated 4000 landings.

(e) If the actual number of landings is unknown for the purpose of complying with this AD, one landing may be substituted for each 1/2 flight hour unless the operator substantiates a different flight hours to landings ratio. This substantiation may be submitted to and approved by an FAA Maintenance Inspector.

(f) A special flight permit may be issued in accordance with FAR 21.197 to operate the airplane to a location where the requirements of this AD may be accomplished.

(g) An equivalent method of compliance with this AD may be used if approved by the Manager, Area Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussles, Belgium.

This amendment becomes effective on October 7, 1982.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(a)); sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "Addresses" at the location identified.

This is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review by only the Courts of Appeals of the United States or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Missouri on September 20, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-26939 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Airworthiness Docket No. 82-ASW-57, Amendment 39-4466]

Airworthiness Directives; Societe National Industrielle Aerospatiale Model AS-350 and AS-355 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) requiring initial and repetitive inspection, and removal from service after 1,200 hours' total time in service, of the tail rotor drive shaft bearings on Aerospatiale Model AS-350 and AS-355 series helicopters. The AD is needed to prevent failure of a bearing which has resulted in failure of the drive shaft. Failure of the drive shaft may cause loss of directional control of the helicopter.

DATE: Effective October 15, 1982.

Compliance required as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

Copies of the service bulletins are contained in the rules docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591 and at the Office of the Regional Counsel,

Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: C. Christie, Manager, Aircraft Certification Staff, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513–38–30., or Samuel E. Brodie, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone: (817) 624–4911, extension 502.

SUPPLEMENTARY INFORMATION: There have been reports of four accidents possibly caused by loss of directional control due to failure or seizure of tail rotor drive shaft bearings and resulting failure of the drive shaft on Aerospatiale Model AS–350 helicopters. Societe Nationale Industrielle Aerospatiale provides corrective measures applicable to both the AS–350 and AS–355, in Service Bulletin Nos. 05.08 and 05.02 respectively, both dated May 27, 1982. The French Airworthiness Authority has also issued French airworthiness directives specifying compliance with both Aerospatiale service bulletins due to the similarity of design and application of the same bearing part numbers on both helicopter models. Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires initial and repetitive inspections of the tail rotor drive shaft bearings and removal of the bearings on attaining 1,200 hours' total time in service.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Approximately 344 aircraft could be affected by the requirements of this AD for an estimated impact of approximately $66,000 or $191 per aircraft.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Societe Nationale Industrielle Aerospatiale: Applies to model AS–350 and model AS–355 series helicopters certified in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent possible failure or seizure of tail rotor drive shaft bearings (part numbers SKF 6007–2RS1MT47CA/AS704A33.651.010.) accomplish the following:

(a) Within the next 50 hours' time in service after the effective date of this AD, inspect the perpendicularity of each bearing relative to the tail rotor drive shaft in accordance with paragraph 1(C)(1)(a) and figure 1 of Societe Nationale Industrielle Aerospatiale Service Bulletin No. 05.08 for the model AS–350 helicopter, and Service Bulletin No. 05.02 for the model AS–355 helicopter, both dated May 27, 1982, (hereinafter referred to as the applicable service bulletin), or an FAA approved equivalent method.

Note.—Except for helicopter model applicability, the provisions of Service Bulletin Nos. 05.08 and 05.02 are identical.

(1) When perpendicularity of the bearing relative to the shaft is within runout indication of less than 0.2 mm (.008 in.), inspect the bearing in accordance with paragraph 1(C)(2) of the applicable service bulletin.

(2) When perpendicularity of the bearing relative to the shaft gives a runout indication of 0.2 mm (.008 in.) or more, and the bearing time in service does not exceed 300 hours, inspect the bearing in accordance with paragraph 1(C)(2) of the applicable service bulletin and replace the rubber sleeve with a serviceable sleeve.

(3) When perpendicularity of the bearing relative to the shaft gives a runout indication of 0.2 mm (.008 in.) or more and the bearing has more than 300 hours' time in service, remove the bearing and rubber sleeve from service and install a serviceable sleeve and bearing.

(b) Accomplish paragraph 1(C)(2) of the applicable service bulletin at intervals not to exceed 300 hours' time in service from the last inspection.

(c) For bearings with less than 1,100 hours' time in service on the effective date of this AD, remove the rubber sleeves and bearings from service and install serviceable sleeves and bearings, before or upon achieving 1,200 hours' time in service.

(d) For bearings with 1,100 hours' or more time in service on the effective date of this AD, remove the rubber sleeves and bearings from service and install serviceable sleeves and bearings within 100 hours' time in service after the effective date of this AD.

(e) When the tail rotor drive shaft rear section is disassembled in accomplishing the requirements of this AD, install the drive shaft in accordance with paragraph 1(C)(3) of the applicable service bulletin. When a bearing is replaced, the bearing perpendicularity relative to the tail rotor drive shaft must provide an out-of-round indication of 0.15 mm (.006 in.) or less when examined in accordance with paragraph 1(C)(1)(a) of the applicable service bulletin.

(f) Equivalent means of compliance must be approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, or the Manager, Aircraft Certification Division, ASW–100, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

This amendment becomes effective October 15, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation that is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "For Further Information Contact."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on September 17, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82–26859 Filed 9–29–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82–ANE–22]

Amendment to Description of Mansfield, Massachusetts Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends the Mansfield, Massachusetts 700-foot transition area to provide additional controlled airspace to protect aircraft executing the Non-Directional Beacon (NDB) Runway 32 original Standard Instrument Approach Procedure (SIAP) at Mansfield Municipal Airport, Mansfield, Massachusetts.

DATE: October 30, 1982

FOR FURTHER INFORMATION CONTACT: David Hurley, Manager, Operations, Procedures and Airspace Branch, ANE–530, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington,

Massachusetts 01803, Telephone: (617) 273–7285.

SUPPLEMENTARY INFORMATION:

History

On Thursday, June 24, 1982, a Notice of Proposed Rulemaking was published in the **Federal Register** (47 FR 27373) stating the FAA proposed to amend the 700-foot transition area so as to provide airspace protection for aircraft executing the NDB Runway 32 original SIAP at Mansfield Municipal Airport, Mansfield, Massachusetts. Interested persons were invited to participate in this rulemaking process by submitting written comments on the proposal to the FAA. No objections were received.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the 700-foot transition area at Mansfield Municipal Airport, Mansfield Massachusetts, as follows:

Mansfield, Massachusetts

Delete: "excluding that portion that coincides with the Boston, Massachusetts transition area."

After "to the VOR" insert: "and within 3 miles each side of the 312° bearing from the Mansfield NDB extending from the 5-mile radius area to 8.5 miles southeast of the Mansfield NDB excluding those portions that coincide with the Boston and Taunton, Massachusetts transition area."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61, Federal Aviation Regulations (14 CFR 11.61))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore it is certified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal and; (4) rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on September 20, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-26561 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23344; Amdt. No. 1226]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and effficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR/VOR/DME SIAPs identified as follows:

** * * Effective November 11, 1982*

Monroeville, AL—Monroe County, VOR/DME Rwy 3, Original
Monroeville, AL—Monroe County, VOR Rwy 3, Amdt. 6
Monroeville, AL—Monroe County, VOR/DME Rwy 21, Original
Monroeville, AL—Monroe County, VOR Rwy 21, Amdt. 6
Almyra, AR—Almyra Muni, VOR/DME–A, Amdt. 4
McGehee, AR—McGehee Muni, VOR/DME–A, Amdt. 2
Kalamazoo, MI—Kalamazoo Muni, VOR Rwy 17, Amdt. 13
Kalamazoo, MI—Kalamazoo Muni, VOR Rwy 23, Amdt. 14
Kalamazoo, MI—Kalamazoo Muni, VOR Rwy 35, Amdt. 13
Fishers Island, NY—Elizabeth Field, VOR–A, Amdt. 4
Ithaca, NY—Tompkins County, VOR Rwy 14, Amdt. 11
Bloomsburg, PA—Bloomsburg Muni, VOR Rwy 8, Amdt. 2
Victoria, TX—Victoria Regional, VOR Rwy 12L, Amdt. 9
Victoria, TX—Victoria Regional, VOR/DME Rwy 30R, Amdt. 1
Chincoteague, VA—NASA Wallops Flight Center, VOR/DME or TACAN Rwy 10, Amdt. 1
Chincoteague, VA—NASA Wallops Flight Center, VOR or TACAN Rwy 17, Amdt. 4
Richland, WA—Richland, VOR Rwy 25, Amdt. 5
Richland, WA—Richland, VOR/DME–A Amdt. 4

** * * Effective October 28, 1982*

Lewiston, ID—Lewiston-Nez Perce County, VOR Rwy 8, Amdt. 5
Lewiston, ID—Lewiston-Nez Perce County, VOR Rwy 26, Amdt. 12
Goodland, KS—Renner Fld (Goodland Muni), VOR Rwy 30, Amdt. 4
Goodland, KS—Renner Fld (Goodland Muni), VOR/DME Rwy 30, Amdt. 2
Fargo, ND—Hector Field, VOR Rwy 35, Amdt. 10
Douglas, WY—Converse County, VOR–A, Original

** * * Effective September 23, 1982*

Anoka, MN—Gateway North Industrial, VOR Rwy 34, Amdt. 3
Buffalo, MN—Buffalo Muni, VOR–B, Amdt. 2
Minneapolis, MN—Anoka County-Blaine Airport (Janes Field), VOR Rwy 8, Amdt. 9
Minneapolis, MN—Crystal, VOR–A, Amdt. 8
Minneapolis, MN—Anoka County-Blaine Airport (Janes Field), VOR/DME Rwy 26, Amdt. 2

** * * Effective September 8, 1982*

Mt. Pocono, PA—Pocono Mountains Muni, VOR Rwy 13, Amdt. 3

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

** * * Effective November 11, 1982*

Richland, WA—Richland, LOC Rwy 19, Amdt. 4

** * * Effective October 28, 1982*

Goodland, KS—Renner Fld (Goodland Muni), LOC Rwy 30, Amdt. 3
Wichita, KS—Wichita Mid-Continent, LOC BC Rwy 1L, Amdt. 1, cancelled
St. Louis, MO—Lambert-St. Louis Intl, LOC Rwy 12L, Original, cancelled
St. Louis, MO—Lambert-St. Louis Intl, LDA/DME–A, Original
Fargo, ND—Hector Field, LOC BC Rwy 17, Amdt. 9, cancelled

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective November 25, 1982*

Phillipsburg, KS—Phillipsburg Muni, NDB Rwy 31, Amdt. 5
Clinton, MO—Clinton Memorial, NDB Rwy 4, Amdt. 3
Clinton, MO—Clinton Memorial, NDB Rwy 22, Amdt. 4
Trenton, MO—Trenton Muni, NDB Rwy 17, Amdt. 4
Trenton, MO—Trenton Muni, NDB Rwy 35, Amdt. 6

** * * Effective November 11, 1982*

Magnolia, AR—Magnolia Muni, NDB Rwy 35, Amdt. 2
Americus, GA—Souther Field, NDB Rwy 22, Amdt. 7
Lamar, MO—Lamar Muni, NDB Rwy 3, Original
Cushing, OK—Cushing Muni, NDB Rwy 35, Amdt. 2
Houston, TX—Houston Intercontinental, NDB Rwy 26, Original
Richland, WA—Richland, NDB Rwy 19, Amdt. 4
Waukesha, WI—Waukesha County, NDB Rwy 10, Amdt. 8, cancelled

** * * Effective October 28, 1982*

Goodland, KS—Renner Fld (Goodland Muni), NDB Rwy 30, Amdt. 3
Fargo, ND—Hector Field, NDB Rwy 17, Amdt. 11

** * * Effective September 20, 1982*

Monroe, LA—Monroe Regional, NDB Rwy 4, Amdt. 13
Reading, PA—Reading Municipal Gen Carl A. Spaatz Field, NDB Rwy 36, Amdt. 20

** * * Effective September 14, 1982*

Charlottesville, VA—Charlottesville-Albemarle, NDB Rwy 3, Amdt. 12

Note.—The FAA published an amendment in Docket No. 23318, Amdt. No. 1225 to Part 97 of the Federal Aviation Regulations (Vol 47, FR No. 182, Page 41354; dated September 20, 1982) under Section 97.27 effective October 28, ,1982, which is hereby amended as follows: San Antonio, TX San Antonio Intl, NDB Rwy 3, Amdt 35; NDB Rwy 12R, Amdt 19; NDB Rwy 30L Amdt 8 are rescinded.

Note.—The FAA published an amendment in Docket No. 23318, Amdt. No. 1225 to Part 97 of the Federal Aviation Regulations (Vol 47, FR No. 182, Page 41354; dated September 20, 1982) under section 97.27 effective October 20, 1982, which is hereby amended as follows: Lumberton, NC Lumberton Muni, NDB Rwy 13, Amdt 5, change effective date to October 28, 1982.

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

** * * Effective November 11, 1982*

Bemidji, MN—Bemidji-Beltrami Co., MLS Rwy 31 (Interim), Amdt. 3, cancelled
Ithaca, NY—Tompkins County, ILS Rwy 32, Amdt. 2
Massena, NY—Richards Field, ILS Rwy 5, Amdt. 1
Charlotte, NC—Douglas Muni, ILS Rwy 36L, Amdt. 4
Victoria, TX—Victoria Regional, ILS Rwy 12L, Amdt. 4

** * * Effective October 28, 1982*

Lewiston, ID—Lewiston-Nez Perce County, ILS Rwy 28, Amdt. 9
Wichita, KS—Wichita Mid Continent, ILS Rwy 1L, Original
Wichita, KS—Wichita Mid Continent, ILS Rwy 19R, Amdt. 1
St. Louis, MO—Lambert-St. Louis Intl, ILS Rwy 30R, Amdt. 2
Fargo, ND—Hector Field, ILS Rwy 17, Original
Fargo, ND—Hector Field, ILS Rwy 35, Amdt. 29

** * * Effective September 20, 1982*

Reading, PA—Reading Municipal Gen. Carl A. Spaatz Field, ILS Rwy 36, Amdt. 25

** * * Effective September 14, 1982*

Charlottesville, VA—Charlottesville-Albemarle, ILS Rwy 3, Amdt. 8

Note.—The FAA published an amendment in Docket No. 23318, Amdt. No. 1225 to part 97 of the Federal Aviation Regulations (Vol 47, FR No. 182, Page 41354; dated September 20, 1982) under Section 97.29 effective

October 28, 1982, which is hereby amended as follows: San Antonio, TX, San Antonio Intl, ILS Rwy 3, Amdt. 12, ILS Rwy 12R, Amdt. 9; ILS Rwy 30L Amdt. 6 are rescinded.

5. By amending § 97.31 RADAR SIAPs identified as follows:

** * * Effective November 11, 1982*

Tulsa, OK—Richard Lloyd Jones, Jr., RADAR-1, Original

** * * Effective October 28, 1982*

Fargo, ND—Hector Field, RADAR-1, Amdt. 5

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective October 28, 1982*

Wichita, KS—Wichita Mid-Continent, RNAV Rwy 1L, Amdt. 3
Wichita, KS—Wichita Mid-Continent, RNAV Rwy 19R, Amdt. 3
Fargo, ND—Hector Field, RNAV Rwy 13, Amdt. 4

** * * Effective September 20, 1982*

Reading, PA—Reading Municipal Gen Carl A. Spaatz Field, RNAV Rwy 13, Amdt. 4
Reading, PA—Reading Municipal Gen Carl A. Spaatz Field, RNAV Rwy 18, Amdt. 4

** * * Effective September 14, 1982*

Charlottesville, VA—Charlottesville-Albemarle, RNAV Rwy 3, Amdt. 2

Note.—The FAA published an amendment in Docket No. 23277, Amdt. No. 1224 to Part 97 of the Federal Aviation Regulations (Vol 47, FR No. 173, Page 39147; dated September 7, 1982) under section 97.33 effective October 28, 1982, which is hereby amended as follows: Grand Ledge, MI, Abrams Muni, RNAV Rwy 27, Orig Cancelled.

(Secs. 30, 7 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980.

Issued in Washington, D.C. on September 24, 1982.

John M. Howard,

Manager, Aircraft Programs Division.

[FR Doc. 82-26860 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

23 CFR Part 656

Carpool and Vanpool Projects

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) is revising existing carpool and vanpool procedures to reflect changes required by the Surface Transportation Assistance Act of 1978. The revised rule contains the basic criteria for determining whether carpool and vanpool (ridesharing) projects are eligible for Federal-aid funding under 23 U.S.C. 146.

EFFECTIVE DATE: November 8, 1982.

FOR FURTHER INFORMATION CONTACT: Barbara Reichart, Office of Highway Planning, 202-426-0210, or Hugh T. O'Reilly, Office of the Chief Counsel, 202-426-0781, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: This rule amends the FHWA's existing carpool and vanpool regulation (23 CFR 656) as required by section 126 of the Surface Transportation Assistance Act of 1978 (STAA) (Pub. L. 95-599, 92 Stat. 2689). The STAA changes the Federal share for carpool and vanpool projects from 90 percent to 75 percent; permits the use of Federal-aid secondary system funds for such projects; changes these projects from demonstration projects to regular Federal-aid highway projects; and declares that special efforts should be made to promote commuter modes of transportation that conserve energy, reduce pollution and reduce traffic congestion. This rule does not concern grants and loans made pursuant to subsections (e) and (f) of section 126 of the STAA.

A notice of proposed rulemaking (NPRM) was published in the **Federal Register** (44 FR 70753) on December 10, 1979, requesting comments on proposed revisions to the carpool and vanpool regulation.

This rule was previously published on January 8, 1981, at 46 FR 2298. On January 29, 1981, a memorandum was issued by the President which, among other things, directed executive agencies to postpone for 60 days the effective dates of regulations which had been issued but were scheduled to become effective during that 60-day period. The Department of Transportation on February 4, 1981, pursuant to the President's memorandum, postponed the effective dates of all Department of Transportation regulations covered by the President's directive until March 31, 1981. The postponement afforded the government the opportunity to review each of these regulations. Based upon that review, the FHWA withdrew the regulation, 23 CFR 656, Carpool and Vanpool Projects, published at 46 FR 2298, January 8, 1981, to reassess this rule as well as the agency's overall implementation of this program in light of Executive Order 12291, issued by the President on February 17, 1981.

Based upon this review and assessment, the FHWA has determined that the regulatory process is the appropriate mechanism to implement the legislative and executive requirements for administering Federal-aid carpool and vanpool projects. The intent of this action is to provide clarity and uniformity of Federal policy and formal acknowledgement of Federal interest to support State initiatives in this area.

The rule itself is a product of recognized formal participation between FHWA, States, and other interested parties which gives the rule legitimacy and acceptance and establishes program consistency on such key issues as eligibility and project content.

Administering Federal-aid carpool and vanpool projects through this rule will improve cost effectiveness. First, it will save administrative time at all levels from local to Federal Government by clearly defining the basic program outline. Second, by uniformly articulating eligibility and project content, Federal-aid funds will be used more consistently of the legislatively intended purposes. In addition, this rule is a condensation of program experience with previous rules, combining into one shorter rule (four sections versus the previous seven) the basic guidance from previous rules, the changes required by new law, and policies developed from experience to date. Further, this rule is not a major action within the meaning of Executive Order 12291 nor is it a significant action within the meaning of the DOT Regulatory Policies and Procedures. The rule merely implements policies set forth in the STAA; it will not increase spending.

Therefore, having completed the assessment required by Executive Order (E.O.) 12291 and having determined that this rule is a necessary and desirable mechanism by which to administer Federal-aid carpool and vanpool projects, the FHWA has determined to proceed with issuance of this final rule. Inasmuch as this rule is substantially identical to the version which was

previously the subject of public comment, and no legislative changes have occurred in the interim, it is not anticipated that additional notice and opportunity to comment would result in the receipt of useful information.

Discussion of Comments

Thirty-three letters were submitted to the public docket (No. 79–28) in response to the NPRM. The FHWA carefully reviewed all comments received. As many comments as possible have been incorporated into this final rule. The purpose of this preamble is to explain our actions regarding the most significant comments as well as to present our approach and policies regarding the Federal-aid role in ridesharing transportation.

The FHWA recognizes that all ridesharing efforts, regardless of the purpose of the trips involved, help to conserve energy, reduce pollution, and reduce traffic congestion. However, the work or commute trip is the most adaptable trip purpose for ridesharing arrangements, accounting as it does for some 40 percent of all home-based trips taken by automobile. The commute trip is specifically addressed in the national policy statement in the STAA. The FHWA continues this emphasis for ridesharing projects as such projects contribute to better transportation system management, especially during peak travel periods where street and highway physical capacity is often constrained. This policy emphasis is not meant to inhibit State and local officials from implementing Federal-aid ridesharing projects that address other trip purposes where such projects are consistent with local needs and the policy objectives stated in § 656.3 of this rule.

Several comments were received regarding the size of vans which can be purchased with Federal-aid funds. Based on a review of these comments and the assessment made under E.O. 12291, the allowable passenger capacity in § 656.5(c)(3)(i) has been changed from 8 to 15 passengers to 7 to 15 passengers to accommodate smaller sized vans and other vehicles available in the marketplace and to be consistent with certain State motor vehicle code definitions that use the 7 passenger number criterion. Section 656.5(c)(3)(ii) requires that provision be made for repayment of the acquisition cost of the van, but also specifies two situations in which repayment may not be required where the van is used as a marketing device.

Many commenters objected to the lowering of the Federal matching ratio from 90 percent to 75 percent for Federal-aid ridesharing projects. This change was legislatively mandated by Congress in Section 126(b) of the STAA. The STAA repealed the Emergency Highway Energy Conservation Act of 1974 under which ridesharing projects were funded on a demonstration basis with a 90 percent Federal share. The STAA removed the demonstration status and incorporated ridesharing projects into the regular Federal-aid highway program, which limits the Federal share of the project cost to 75 percent (except as provided under Section 120 of Title 23 U.S.C., for certain public land States).

Under the authority of 23 U.S.C. 146(b), the FHWA has determined that arrangements made by the State for contributed essential project-related work by local agencies and private organizations may be included in the total project costs and used as the non-Federal match when approved and authorized in accordance with regular Federal-aid procedures. The cost of such work must be properly valued, supportable and verifiable in order for inclusion as an eligible project cost. Private employers are particularly encouraged to commit their resources as described above in order to contribute to areawide ridesharing efforts. Contributions from vendors who provide supplies or services as a cost to the project should reduce the burden some States or local areas may face in providing the required States' pro-rata share of the project costs. However, in no case can Federal reimbursement exceed the amount of funds actually expended on eligible work by the State or political subdivisions thereof. The foregoing procedure is implemented in a new § 656.7.

Section 656.5(c)(5) indicates that Federal-aid funds will participate in the initial or renewal costs of leasing parking spaces or the acquisition of easements or restrictions to provide preferential parking for carpools. Where a reduction in the overall number of vehicles using the designated portion of a commercial parking facility can be demonstrated, that reduction may be used in computing the lease or acquisition cost for the project. However, the regulation does not permit the cost to be computed on the basis of a reduction of the per-vehicle user charge for parking in the designated area.

Another issue raised involved the use of Federal-aid Interstate (FAI) funds for ridesharing projects. This issue had two general aspects. The first was the comment offered by many that FHWA should allow FAI funds to participate in the costs to construct exclusive (not served by existing or planned transit) carpool and vanpool fringe parking facilities not located within the existing FAI right-of-way. At the present time, FHWA has authority under 23 U.S.C. 146(a) to use Federal-aid urban (FAUS), primary (FAP) and secondary (FAS) system funds for such carpool and vanpool fringe parking facilities. Federal-aid Interstate construction funds can *only* participate in fringe parking facilities that are associated with an approved high occupancy vehicle (HOV) lane(s) for which costs were included in the 1981 Interstate Cost Estimate. Federal-aid Interstate 4R funds can be used to construct fringe parking facilities serving an Interstate route that are not otherwise eligible for Interstate construction funds provided such facilities serve public mass transportation.

It should be emphasized that other regular construction projects such as constructing high occupancy vehicle (HOV) lanes and facilities and multimodal fringe parking facilities can be funded with all categories of Federal-aid funds including FAI funds.

The second aspect of FAI funding involved numerous suggestions that these funds be eligible to participate in the administrative costs of ridesharing programs. Currently, 23 U.S.C. 146(a) specifically authorizes the use of FAUS, FAP, and FAS funds for such purposes. The FHWA believes that these three classes of funds are sufficient to support ridesharing projects and strongly encourages State and local officials to give priority to ridesharing projects in the annual programs of projects prepared by the States.

Another concern raised by commenters is the language in § 656.5(a) that ridesharing projects "must serve a Federal-aid system" and be financed with the appropriate class of eligible funds, "depending on the system served." This is merely a restatement of FHWA policy that Federal-aid funds should be used for projects that will improve the people-moving efficiency of the overall Federal-aid system, and that the class of funds used should depend on the system benefited by the expenditure. In projects involving physical facilities, such as providing a bus and carpool lane, the class of Federal-aid funds to use is usually obvious. With respect to other ridesharing projects such as promotion and matching programs or van acquisition, which by their nature cannot be limited to a specific physical facility, State and local officials must decide which Federal-aid system will receive the primary benefit and use that

class of funds for the project. Splitting or prorating of costs among different system funds for a nonconstruction ridesharing project that serves a geographic area is neither required nor encouraged.

Many commenters suggested that the requirement in § 656.5(b) that Federal-aid carpool and vanpool projects not have "an adverse effect on any mass transportation system" be deleted. This restriction is specifically included in the authorizing legislation (STAA) and therefore cannot be administratively deleted. In considering this legislation, the congressional conferees addressed the "adverse effect" issue in their Conference Report [1] and stated that an adverse effect had to be an "appreciable adverse impact," more than a *de minimis* effect. The FHWA believes that the intent of this requirement is consistent with the policy and practice followed by Federal-aid ridesharing projects since 1974, i.e., ridesharing projects are intended to complement public transportation and accommodate travel demands that transit cannot conveniently accommodate on a cost-effective basis. Carpools and vanpools are viewed as integral parts of a balanced transportation system that complement and enhance the efforts of public and private transit services to broaden the alternatives to the single-occupancy automobile. Ridesharing operations are particularly complementary for low-density and suburb-to-suburb trips not efficiently served by fixed-route, radial transit services and where adequate peak-period transit service is not available. In many cases, carpooling and vanpooling activities help to identify potential transit expansion markets and for many commuters serve as the first step in shared riding, preparing them to become transit riders as service expands.

The FHWA believes that through the State-administered Federal-aid program, institutional processes are in place that ensure coordination of transportation planning and project funding and protection against appreciable adverse impacts. At the local level, the metropolitan planning organization, comprised of local elected officials and with representation of other agencies, including transit operators, provides an additional mechanism to ensure that urban ridesharing projects do not have a substantial adverse effect on urban area transit service. It should be noted that several transit agencies currently use Federal-aid funds to support ridesharing projects to complement their existing transit service. The FHWA welcomes these ridesharing program partners and strongly encourages other transit operators to support ridesharing projects.

[1] H.R. Rep. No. 95–1797, 95th Cong., 2d Sess. 98 (1978).

Other Considerations

The FHWA believes the sponsoring role the Federal Government is taking with respect to ridesharing is creating an organizational commitment within the transportation profession and between leaders in both the public and private sectors to implement and expand ridesharing opportunities. Public officials and private employers are increasingly regarding ridesharing as an effective tool of community and economic development, harnessing the efficient use of private vehicles to serve the public interest.

The FHWA's primary involvement is to provide a safe and adequate physical network of streets and highways, including funding of ridesharing incentives, to hasten the removal of legal and regulatory barriers that inhibit the growth of ridesharing and to provide information, technical assistance, and encouragement to accelerate and enhance ridesharing.

Ridesharing as a practice has grown rapidly beyond its carpool origins and is still evolving as a concept. This rule addresses the use of Federal-aid highway funds to help support and carry out carpool and vanpool projects, the backbone of the ridesharing concept.

The FHWA has determined that this document contains neither a major rule under Exective Order 12291 nor a significant regulation under DOT regulatory policies and procedures.

A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Barbara Reichart of the program office at the address specified above. For the reasons provided earlier in this preamble, under the criteria of the Regulatory Flexibility Act, it is certified that this rule will not have a significant economic impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Number 20.205 Highway Research, Planning, and Construction. The Provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

List of Subjects in 23 CFR Part 656

Carpools, Grant programs—transportation, Parking, Ridesharing.

In consideration of the foregoing, Chapter 1 of Title 23, Code of Federal Regulations, Part 656 is revised to read as set forth below.

Issued on: September 22, 1982.

Ray Barnhart,

Federal Highway Administrator, Federal Highway Administration.

PART 656—CARPOOL AND VANPOOL PROJECTS

Sec.

656.1 Purpose.
656.3 Policy.
656.5 Eligibility.
656.7 Determination of an exception.

Authority: 23 U.S.C. 146 and 315; § 126 of the Surface Transportation Assistance Act of 1978, Pub. L. 95–599, 92 Stat. 2689; 49 CFR 1.48(b).

§ 656.1 Purpose.

The purpose of this regulation is to prescribe policies and general procedures for administering a program of ridesharing projects using Federal-aid primary, secondary, and urban system funds.

§ 656.3 Policy.

Section 126(d) of the Surface Transportation Assistance Act of 1978 declares that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion.

§ 656.5 Eligibility.

(a) Projects which promote ridesharing programs need not be located on but must serve a Federal-aid system to be eligible for Federal-aid primary, secondary, or urban system funds depending on the system served. The Federal share payable will be in accordance with the provisions of 23 U.S.C. 120. Except for paragraph (c)(3) of this section, for all purposes of this regulation the term "carpool" includes "vanpool."

(b) Projects shall not be approved under this regulation if they will have an adverse effect on any mass transportation system.

(c) The following types of projects and work are considered eligible under this program:

(1) Systems, whether manual or computerized, for locating potential participants in carpools and informing them of the oppportunities for participation. Eligible costs for such systems may include costs of use or rental of computer hardware, costs of software, and installation costs (including both labor and other related items).

(2) Specialized procedures to provide carpooling opportunities to elderly or handicapped persons.

(3) The costs of acquiring vanpool vehicles and actual financial losses that occur when the operation of any vanpool is aborted before the scheduled termination date for the reason, concurred in by the State, that its continuation is no longer productive. The cost of acquiring a vanpool vehicle is eligible under the following conditions:

(i) The vanpool vehicle is a four-wheeled vehicle manufactured for use on public highways for transportation of 7–15 passengers (no passenger cars which do not meet the 7–15 criteria and no buses); and

(ii) Provision is made for repayment of the acquisition cost to the project within the passenger-service life of the vehicle. Repayment may be accomplished through the charging of a reasonable user fee based on an estimated number of riders per vehicle and the cost of reasonable vehicle depreciation, operation, and maintenance. Repayment is not required under the following conditions:

(A) When vehicles are purchased as demonstrator vans for use as a marketing device. Vehicles procured for this purpose should be used to promote the vanpool concept among employees, employers, and other groups by allowing potential riders and sponsors to examine commuter vans; or

(B) When vehicles are purchased for use on a trial commuting basis to enable people to experience vanpooling first hand. The trial period must be limited to a maximum of 2 months. That part of the user fee normally collected to cover the capital or ownership cost of the van would be eligible for reimbursement as a promotional cost during the limited trial period. As with established vanpool service, all vehicle operating costs must be borne by the user(s) during the trial period.

(4) Work necessary to designate existing highway lanes as preferential carpool lanes or bus and carpool lanes. Eligible work may include preliminary engineering to determine traffic flow and design criteria, signing, pavement markings, traffic control devices, and minor physical modifications to permit the use of designated lanes as preferential carpool lanes or bus and carpool lanes. Such improvements on any public road may be approved if such projects facilitate more efficient use of any Federal-aid highway. Eligible costs may also include costs of initial inspection or monitoring of use, including special equipment, to ensure that the high occupancy vehicle (HOV) lanes designation is effective and that the project is fully developed and operating properly. While no fixed time limit is being arbitrarily prescribed for the inspection and monitoring period, it is intended that this activity be conducted as soon as possible to evaluate the effectiveness of the project and does not extend indefinitely nor become a part of routine facility operations.

(5) Signing of and modifications to existing facilities to provide preferential parking for carpools inside or outside the central business district. Eligible costs may include trail blazers, on-site signs designating highway interchange areas or other existing publicly or privately owned facilities as preferential parking for carpool participants, and initial or renewal costs for leasing parking space or acquisition or easements or restrictions, as, for example, at shopping centers and public or private parking facilities. The lease or acquisition cost may be computed on the demonstrated reduction in the overall number of vehicles using the designated portion of a commercial facility, but not on a reduction of the per-vehicle user charge for parking.

(6) Construction of carpool parking facilities outside the central business district. Eligible costs may include acquisition of land and normal construction activities, including installation of lighting and fencing, trail blazers, on-site signing, and passenger shelters. Such facilities need not be located in conjunction with any existing or planned mass transportation service, but should be designed so that the facility could accommodate mass transportation in the event such service may be developed. Except for the requirement of the availability of mass/public transportation facilities, fringe parking construction under this section shall be subject to the provisions of 23 CFR 810.106.

(7) Reasonable public information and promotion expenses, including personnel costs, incurred in connection with any of the other eligible items mentioned herein.

§ 656.7 Determination of an exception.

(a) The FHWA has determined under provisions of 23 U.S.C. 146(b) that an exceptional situation exists in regard to the funding of carpools so as to allow the State to contribute as its share of the non-Federal match essential project-related work and services performed by local agencies and private organizations when approved and authorized in accordance with regular Federal-aid procedures. The cost of such work must be properly valued, supportable and verifiable in order for inclusion as an eligible project cost. Examples of such contributed work and services include: public service announcements, computer services, and project-related staff time for administration by employees of public and private organizations.

(b) This determination is based on: (1) The nature of carpool projects to provide a variety of services to the public; (2) the fact that carpool projects are labor intensive and require professional and specialized technical skills; (3) the extensive use of joint public and private endeavors; and (4) the fact that project costs involve the acquisition of capital equipment as opposed to construction of fixed items.

(c) This exception is limited to carpool projects and therefore is not applicable to other Federal-aid projects. The exception does not affect or replace the standard Federal-aid funding procedures or real property acquisition procedures and requirements, Part 712, The Acquisition Function.

[FR Doc. 82–26996 Filed 9–29–82; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF EDUCATION

34 CFR Parts 537, 667, and 764

Removal of Miscellaneous Regulations

AGENCY: Education Department.

ACTION: Final regulations.

SUMMARY: The Secretary amends Title 34 of the Code of Federal Regulations (CFR) by removing certain obsolete parts. These regulations are no longer needed for the reasons described in this document. The Secretary takes this action to eliminate unnecessary regulations.

EFFECTIVE DATE: Part 667 is removed effective October 1, 1982. Parts 537 and 764 are removed effective September 30, 1982.

FOR FURTHER INFORMATION CONTACT: A. Neal Shedd, Director, Division of Regulations Management, 400 Maryland Avenue, SW., (Room 2129, FOB–6), Washington, D.C. 20202. Telephone: (202) 245–7091.

SUPPLEMENTARY INFORMATION: Under Executive Order 12291, effective February 17, 1981, the Department of Education (ED) is reviewing, and, where possible, eliminating unnecessary regulations. After reviewing the ED regulations listed in this document, we have determined that they are now obsolete. The purpose of this document is to remove these regulations from Title 34 of the CFR.

We are removing the following parts:

Part 537—Indochina Refugee Children Assistance Program. These regulations are obsolete because legislation authorizing this program was repealed by the Consolidated Refugee Education Assistance Act, Pub. L. 97–35, Title V, Section 542(2).

Part 667—The International Understanding Program. These regulations are obsolete because legislation authorizing this program was repealed effective October 1, 1982, by the Education Consolidation and Improvement Act of 1981, Pub. L. 97–35, Title V, Section 587(a)(1).

Part 764—Secretary's Discretionary Program. These regulations are obsolete because they have been superseded by the Education Consolidation and Improvement Act of 1981, Pub. L. 97–35, enacted August 13, 1981.

Grants previously awarded by ED under these regulations remain subject to the regulations in effect at the time the grants were made.

The publication of this document as a proposed rule for public comment is unnecessary because it concerns only the removal of obsolete regulations from the CFR.

List of Subjects

34 CFR Part 537

Education, Elementary and secondary education, Indochina, Refugees.

34 CFR Part 667

Colleges and universities, Cultural exchange programs, Education, Educational study programs, Grant programs—education.

34 CFR Part 764

Education, Educational research, Elementary and secondary education, Grant programs—education.

Dated: September 24, 1982.

(Catalog of Federal Domestic Assistance Numbers 84.066; 84.095; 84.122)

T. H. Bell,

Secretary of Education.

Title 34 of the Code of Federal Regulations is amended as follows:

PART 537—INDOCHINA REFUGEE CHILDREN ASSISTANCE PROGRAM [REMOVED]

1. Part 537 is removed.

PART 667—THE INTERNATIONAL UNDERSTANDING PROGRAM [REMOVED]

2. Part 667 is removed.

PART 764—SECRETARY'S DISCRETIONARY PROGRAM [REMOVED]

3. Part 764 is removed.

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

National Forest System Land and Resource Management Planning

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: In March 1981, the Presidential Task Force on Regulatory Relief identified as a high priority for review the rule which guides land and resource management planning in the National Forest System. As a result of that review, the Department of Agriculture is issuing final revised regulations. These rules require an integration of planning for National Forests and Grasslands, including the planning for timber, range, fish and wildlife, water, wilderness, and recreation resources, together with resource protection activities, such as fire management, and the use of other resources, such as minerals.

EFFECTIVE DATE: November 1, 1982.

ADDRESSES: Comments or questions on these final rules may be addressed to: Chief, Forest Service, USDA, P.O. Box 2417 (1920), Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles R. Hartgraves, Director, Land Management Planning, 202/447–6697.

SUPPLEMENTARY INFORMATION: The Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA) (88 Stat. 476, et seq.), as amended by the National Forest Management Act of 1976 (NFMA) (90 Stat. 2949, et seq.; 16 U.S.C. 1601–1614), specifies that an interdisciplinary approach will be used in land and resource management planning for the National Forest System and that there will be a periodic review of the planning process, followed by any necessary amendments to keep it current with statutory requirements. These statutes also provide for the establishment and revision of national, regional, and local resource goals and objectives based on a periodic assessment of the future supply and demand of renewable resources from public and private forest and range lands. Achievement of these goals and objectives is the purpose of the planning process provided in these regulations. These acts also require public participation in the development, review, and revision of land and resource management plans and the coordination of such plans with State and local units of government and other Federal agencies.

These regulations apply to all land and resource management plans developed hereafter for the National Forest System. By October 1985, plans required by these regulations should be developed for all National Forest System lands.

Introduction

In March 1981, the Presidential Task Force on Regulatory Relief identified as a high priority for review the rule which guides land and resource management planning on the National Forest System. As a result of this review, the Secretary proposed changes in the existing rule to streamline the land management planning process and better direct the process towards the desired result of maximizing net public benefits from National Forest System lands. The proposed rule was published on pages 7678–7696 of the **Federal Register** of February 22, 1982.

Analysis of Public Comment

The proposed revision of the planning regulations generated substantial public interest. In response, the Department extended the public comment period from April 23, 1982, until July 6, 1982, and announced a meeting of a panel of consultants (consisting of members of the former Committee of Scientists), June 30–July 2, to discuss and consider major topics emerging from comments on the proposed rule (47 FR 24348). The meeting was open to the public. Many of the revisions to the final rule reflect the recommendations of the panel.

A total of 2,020 responses were received on the proposed rules. Of the responses received, 88 percent were from individual citizens; 2 percent from government agencies; 1 percent from industry; and 5 percent from environmental groups. In addition, inquiries from members of Congress were received.

The majority of the comments were general in nature, addressing broad issues. About 8 percent of the responses contained substantive recommendations for particular sections of the regulations.

Most respondents viewed the proposed revisions as much more than "streamlining." When viewed as a whole, the revisions represented to most of those who wrote, an "upsetting" of a carefully developed balance between

environmental and industrial interests. While some respondents acknowledged that the revisions represented some improvements, e.g., organizational changes, most felt that the substantive changes favored commodity output at the expense of multiple-use management. Language that had been deleted as "unnecessary" apparently had great symbolic meaning to many people. The concern, in short, was that, in the Department's desire to expedite planning and shorten the existing regulations, the basic purpose of the Forest and Rangeland Renewable Resources Planning Act and the National Forest Management Act of 1976, may have been compromised.

In addition, numerous reviewers stated that there is presently no basis (such as completed plans) on which to evaluate any possible shortcomings of the existing regulations. Approximately 60 percent of respondents specifically requested that the Forest Service implement the existing regulations and not "change direction in mid-stream."

A few respondents supported the decision to revise the regulation, agreeing that they resulted in improved clarity and procedures. Some felt the proposed changes were necessary and that the Forest Service revisions were consistent with Executive Order 12291.

The greatest interest was expressed in § 219.13 Forest Planning Integration Requirements. The majority of the comments related to the revisions of provisions on departure from the nondeclining yield timber harvest policy and to wildlife. Public participation was also a subject which received a great deal of attention.

All suggestions and comments have been reviewed, analyzed, and considered in preparation of the regulations.

Responses are available for review at the office of Land Management Planning, Forest Service, U.S. Department of Agriculture, 14th and Independence Avenue SW., Room 4021, South Building, Washington, D.C. 20013. The following summarizes the major comments and suggestions received on the proposed revision of 36 CFR Part 219 and the Department's response to these comments in the final rule. Comments are keyed to the section numbers and headings of the proposed rule document.

Section 219.1 Purpose

Summary of Major Comments: Many respondents strongly objected to the deletion of the 14 planning principles on the basis that these are important statements of policy which serve as philosophical guides for managing the National Forest System. There was a general uneasiness that the National Forests would no longer be considered ecosystems. Respondents viewed the principles as emphasizing the intent of the Congress in enacting the 1976 Act—that management of the National Forests consider all resources—both marketable and nonmarketable.

Many felt the newly introduced term, "net public benefits," threatened overemphasis on development of marketable resources. It was argued that "maximization of net public benefits" is a misleading term and open to several interpretations.

There were several respondents who stated that the maximization of net public benefits and economic efficiency should be the driving force behind forest planning. However, even some of these comments called for a more quantitative definition of net public benefits.

Response: In the final rule, the 14 planning principles have been reinstated, and the relationship between achieving multiple-use goals and maximizing net public benefits has been restated more clearly. The meaning and use of the term "net public benefits" was misinterpreted by many reviewers as being largely synonymous with "present net value," even though the definitions in § 219.3 clearly indicate that such is not the case. Net public benefits include all outputs and effects. The concept includes both positive and negative values that cannot be quantitatively valued and therefore require the decisionmaker to subjectively balance such benefits or costs with each other and with those that can be quantified. The goal of "maximizing net public benefits" restates direction given to Gifford Pinchot by the Secretary of Agriculture upon the establishment of the Forest Service. That direction was, in part, "* * * where conflicting interests must be reconciled the question will always be decided from the standpoint of the greatest good of the greatest number in the long run. * * *" This goal, expressed in either form, is fully consistent with the language and intent of the Multiple Use-Sustained Yield Act. The definition of net public benefits in § 219.3 has been changed to more clearly describe the concept intended.

Section 219.2 Scope and Applicability

There were very few comments on this section. For clarification, specific language has been added concerning special area authorities.

Section 219.3 Definitions and Terminology

Summary of Major Comments: Removal of the term "integrated pest management" in the proposed rule was interpreted by many as elimination of the concept itself. The perceived omission of the technical concept of integrated pest management as the operating principle for dealing with insects and other pest problems was seen as an error on the part of the Forest Service.

Some respondents viewed the maximization of net public benefits and economic efficiency as righfully being the driving force behind forest planning and as central to Forest Service management objectives and planning. However, some felt that the definition lacked substance and was ambiguous. It was requested that the reference to qualitative measures be removed and a more quantitative definition be developed. Some asked for a definition of both qualitative and quantitative criteria. Some recommended a much clearer and precise definition be developed, based on accepted economic principles, which would include specific criteria for using the measure.

As a decision criteria, some said maximizing net public benefits represented replacement of congressional intent with an Executive branch criterion and would, therefore, be inappropriate. Some said the vague definition would make evaluation of alternatives difficult. Some felt that the process proposed for maximizing net public benefits in forest planning violates the multiple use mandate by exalting the values attributable to commodity resources while largely ignoring values of resources not easily priced. Several respondents pointed out that as defined "maximization of net public benefits" is indeterminate and is, therefore, not a good criterion for evaluating alternatives.

The proposed regulations defined "multiple use" as the management of all renewable surface resources in the National Forest System. Therefore, it was recommended that the "multiple use" definition be revised to reflect the one in the Federal Land Policy and Management Act of 1976, which includes both renewable and nonrenewable resources. Some recommended that the definitions in § 219.3 be expanded to include both renewable and nonrenewable resources. It was suggested nonrenewable resources should include crude oil, natural gas, geothermal resources, carbon dioxide, and other nonrenewable minerals.

Several respondents suggested changes in the published definitions of such terms as "cost efficiency," "biological growth potential," "even-

aged system," "silvicultural systems," "present net value," "real dollar value," "receipt shares," "corridor," "diversity," "goods and services." Several others suggested definitions be included for previously undefined terms, such as "management area," "economic impacts," and "demand."

Response: The Department reexamined the "Definitions" section in light of public comment and a number of changes have been incorporated in the final rule.

1. All suggested changes and additions that seemed to clarify the intended meanings were adopted.

2. Definitions were added for "forest land," "planning period," "planning horizon," and "integrated pest managment."

3. The following terms were redefined to improve clarity: "management concern," and "net public benefits." In the final rule, "net public benefits" has been redefined to more clearly reflect the intent to consider both tangible and intangible benefits and costs and to more clearly identify the term as a concept rather than as a quantitative index that can be objectively applied.

4. Minor changes in wording were made to the following terms: "allowable sale quantity," "sale schedule," "timber production."

5. The term "public participation activities" was dropped from the definition section and included with text in § 219.6, because it was not truly a definition but rather a listing of activities included.

6. The terms "even-aged system" and "uneven-aged system" were changed to "even-aged management" and "uneven-aged management," and those terms, as well as "silvicultural system," were redefined to bring them into agreement with the terminology jointly accepted by the Society of American Foresters and the Forest Service.

7. Requests to define additional terms which are used in the sense of their standard dictionary meanings have not been honored in the final rule.

8. The final rule retains the current definition for "multiple use" since it is a direct quote from the Multiple Use-Sustained Yield Act that directs Forest Service management of the National Forest System.

Section 219.4 Planning Levels

Summary of Major Comments: Most of the comments received on this section related to the regional planning level.

Some stated that the existing language in this section is superior to that of the proposed rule, as it requires planning that meets clearly delineated objectives, with provisions for controlled changes in objectives if the planning analysis shows changes are needed. The proposed language, they felt, promoted planning without objectives.

Many of the comments stated that the regional plan should do more than provide guidance for resolving regional issues; it should actively resolve regional public issues and management concerns and give specific direction to National Forests.

Some thought the regional plan should do more than convey direction and information. Since the regional plan is not required by statute, some reviewers stated that the revision process presented an opportunity to more broadly develop the regional plan's purpose.

It was also suggested that regional plans be eliminated and the functions now assigned regional planning be accomplished through another mechanism.

There were numerous comments that the proposed revision promoted "top-down" planning. Some said the proposals violate congressional intent to emphasize planning based on local information. They argued that the existing regulations require an evaluation of national targets, while the proposed regulations would not allow the Forest Supervisor the option to request adjustments based on local supply and demand, community stability, or potential environmental effects.

Response: In revising this section and §§ 219.8 and 219.9 of the final rule, the Forest Service considered the following factors:

1. The flexibility each Region has to match up the forest plans with the firm program targets established for the Region by the RPA Program is quite limited. Regional planning is essentially program planning rather than land management planning.

2. The process outlined by NFMA for forest planning implies a much broader decision base and different types of decisions than is necessary for regional planning. Efforts to use the same process for regional planning show that at best it is an inefficient use of planning resources and risks misleading the public into expecting more from the regional plans than either could or should be delivered. Therefore, the regional planning process was tailored to more closely portray the kinds of decisions and the flow of information pertinent to that level. The changes made in regional planning in the final rule also ensure close integration of the land and resource management planning process with the RPA Program development.

3. The structure and relationships of multi-level planning must recognize the different roles appropriate to each planning level. The Forest Service has started work on the 1985 RPA Program update. The analysis for this update is to be based in part on data generated in the forest planning process, and it will constitute the development phase of the next round of regional planning. This process is an iterative one, both during each round of planning, and between rounds. In this manner each Forest's capabilities and needs are reflected in the National RPA Program. There should be no misunderstanding, however, of the preeminent role of the President's Statement or Policy and the RPA Program upon which the statement is based. That role is firmly established by the Renewable Resources Planning Act.

As a result of comments received, and in consideration of the foregoing factors, the name of the regional planning document has been changed to Regional Guide to more clearly reflect the intent of that document. Statements have been added to both the regional and forest planning subsections that provide for adjustment of the resource objective tentatively assigned to each unit, and the Chief has been identified as having approval responsibility for the Regional Guides. Editorial changes were made to clarify intent and to remove some material that duplicated requirements treated in later sections.

The suggestion that the regional plan be made a more comprehensive document that would resolve all regional issues and concerns has not been incorporated in the final rule. The most urgent need and primary utility of a regional document at this time and in the context of NFMA planning is to facilitate development of forest plans. Direction necessary to resolve regional issues or concerns that do not directly affect forest planning can more properly be addressed through the normal Forest Service directive system.

Section 219.5 Interdisciplinary Approach

Summary of Major Comments: Identification of the interdisciplinary planning team's functions and personal attributes was broadly viewed as necessary to the effectiveness of the team effort.

The proposed regulations were seen as moving away from true interdisciplinary planning because the responsible official would be allowed to use whatever "combination of Forest Service staff" needed to achieve an interdisciplinary approach. In contrast, some felt the regulations should require certain specific disciplines and

qualifications. Concern was also expressed that expertise about subsurface resources should be required in the interdisciplinary process, that, for example, a geologist should be added to the team. Some requested that economists be included on the interdisciplinary team because of increased economic attention. Minority opinion was received that § 219.5 was too specific. This view was based on the belief that planning needs vary among Forests and, therefore, more general direction would be more effective.

Overall, though, it was the general consensus of reviewers that the proposed revisions weakened the regulations and moved away from multiple-use planning.

Response: To respond to the majority of comments, most of the language of the current regulations is being retained in the final regulations. Minor editorial changes were made for clarity.

Section 219.6 Public Participation

Summary of Major Comments: About 45 percent of the respondents addressed this section. The majority opinion held that public participation would become more difficult under the proposed revisions.

The proposed changes in public participation were generally seen as weakening public involvement in the total planning process and resulting in less frequent and less effective public participation.

Also, the proposed regulations were viewed by many as a premise for allowing planners to arbitrarily withhold requested information by claiming the request to be "unreasonably" burdensome.

To many, the cumulative changes in the public participation provision gave the appearance of undermining the public participation process. The specific requirements of the existing regulations had been seen by many reviewers as standards for public participation activities.

General response to the newly proposed 30- and 60-day limitations for public participation activities was favorable. However, the specifics of how the public would be notified of activities (for example, in the **Federal Register**) was requested.

Some people felt the proposed changes in this section were, in general very good.

Response: In the final rule, the Department has honored the majority of requests by reinstating most of the language of the current regulations and eliminating § 219.6(d) of the proposed rule. Subsection 219.6(f) of the current regulations has been deleted because that subsection was essentially redundant. A new subsection § 219.6(k) which was codified at § 219.7(d) of the February 22 proposed rule has been added. This move was made because § 219.7 is focused on coordination of planning efforts of other public agencies as opposed to participation by individuals.

Section 219.7 Coordination With Other Public Planning Efforts

Summary of Major Comments: Some felt the proposed revisions weakened the regulations through vague wording, although they admitted that a coordinated effort fully meeting the intent of the original regulations would still be possible.

Some suggested that the concept of coordination with public agencies and Indian tribes should be carried clearly throughout other sections of the regulations, specifically including States and other affected entities.

Some felt the regulations should specificallly outline the types of information to be included in public announcements. Some felt that other specific requirements, such as the requirement to maintain lists of affected or interested individuals and groups, should be reinstated.

A minority view stated that the revisions and deletions were appropriate in streamlining and simplifying regulations. Those of this view felt no substantive changes in process would result.

Some respondents suggested deleting the qualifying phrase "to the extent practical" and reinstating without qualification the requirement to coordinate planning activities with adjacent and intermingled landowners. Others thought this requirement should be expanded further to include (1) holders of major rights-of-way; (2) all holders of grazing permits; (3) land and mineral owners of property which may be affected; and (4) "lessees" as well as landowners.

In general, most respondents preferred the existing language.

There was concern expressed regarding the Government's trust obligations to protect Indian treaty resources within, or affected by management of, National Forest areas. It was suggested that coordination procedures must comply not only with National Environmental Protection Act (NEPA) provisions but also with the Federal trust responsibility to Indian tribes.

Response: In the final rule, § 219.7(d) was moved to § 219.6(k) as previously indicated and a new § 219.7(d) on meeting with officials of State and Indian tribal governments and other Federal agencies has been added to address many or the concerns expressed by respondents. § 219.8(i) of the current regulations that deals with monitoring and evaluation of effects on and by adjacent public landowners has been retained in the final rule as § 219.7(f).

Section 219.8 Regional Planning Procedure

Summary of Major Comments: The reorganization of this section into two sections (Regional Guide Content and Regional Planning Procedures) seemed to be favorably received.

Several responses indicated that regional planning should provide standards and guidelines for regional issue resolution as required by the existing regulations rather than simply providing guidance for resolution. Some felt this rewording would promote uncoordinated issue resolution and a disregard for the cumulative impacts of the resolution process, and, in general, did not provide enough emphasis on resolving issues at the regional level.

Several suggested that limiting the scope of the Regional Guide Environmental Impact Statement (EIS) to proposed standards and guidelines falls short of NEPA requirements. Under NEPA, an EIS must be prepared for all major federal actions significantly affecting the environment; many of the policy choices made in regional planning,they said, involve such action.

Several requested that the regulations require that EIS's be prepared which incorporate detailed analysis of costs/benefits for a full range of program distribution alternatives as well as an analysis of all standards and guidelines necessary to resolve regional issues an concerns.

The proposed change to make the administrative appeals procedures applicable to regional planning was generally supported. One group stressed that any appeals process written into the regulations should reflect the relative magnitude of impacts caused by appealed plans on the appellants. Another emphasized that the decision to disapprove a plan should also be subject to appeal, as well as other decisions made during the planning process.

There was a recommendation that only those who participated with written comments or other public participation programs and who have an interest which could be adversely affected by a decision be permitted to appeal an administrative decision on plans.

It was also suggested this section give emphasis to the importance of providing

for energy and minerals management in forest planning.

Response: The reasons for limiting the scope of regional guides at this time are set forth in the discussion of § 219.4 Planning Levels. In the final rule, the scope of the EIS has been limited to standards and guidelines because those are the only elements of the regional guides that could significantly affect the environment. The tentative resource target distribution is not binding on the Forests but merely provides one set of targets that must be considered. As shown in § 219.12(f)–(j), a number of other sets of targets must be analyzed, any one of which can be selected. Any other planning guidance not reflected in standards and guidelines would have no predictable effect on the environment, but would simply add additional procedural direction.

The normal appeal process has not been limited as suggested by some respondents because there seems no valid reason for deviating from the standard practice. Disapprovals and process decisions are not appealable because they are not final. Until the plan is approved, all other decisions are tentative.

Minerals management has not been emphasized in these regulations because the parent statute under which they are written deals with renewable resources, and management of those renewable resources is the primary role of the Department of Agriculture. Other Departments have responsibility for minerals management. The Department recognizes the need for coordinating management of the two types of resources, and provision for coordination of minerals management with renewable resources management has been provided in § 219.22.

The principal change made in § 219.8 is the renaming of the document produced as a "guide", rather than a "plan." The description of the guide was modified to more precisely define its role.

The section dealing with responsibilities was rewritten to improve clarity and to add the responsibilities of the interdisciplinary team.

§ 219.8(h) of the proposed rule has been deleted since it added little to the basic public participation requirements of § 219.6.

A few additional editorial changes have been made to achieve brevity and clarity of expression.

Section 219.9 Regional Plan Content

Summary of Major Comments: Although regional planning received less discussion than other sections, several problems were identified by respondents.

For example, the proposed Regional Plan Content revisions (§ 219.9) were noted for the absence of a clear presentation of the purpose for regional planning. In view of some, the deletion of the 17 management concerns from the existing § 219.10 Regional Planning Actions was seen as undesirable and in need of reinstatement.

Some of the more significant concerns expressed were that the existing regulations require a distribution of regional objectives to each National Forest, while the proposed revisions require a display of each forest planning area's tentative resource objectives from the current RPA Program. To some reviewers this change appears to weaken the required ties between the RPA Program and the forest plan.

Again, some reviewers recommended addressing nonrenewable, as well as renewable resources. They proposed including specific language providing for mineral resource exploration, development, and transportation.

It was suggested that the Regional Plan Content be expanded to include an assessment of resource supply and demand and an analysis of community dependence of National Forest resources.

Attention was drawn to the provision for establishing guidelines for setting the maximum size of openings in even-aged management (§ 219.9(a)(4)(ii)). Some stated this provision could be interpreted as authorizing the Regional Forester to establish arbitrary limits on the size of openings. Therefore, it was felt that size limitations should not be prescribed because they are arbitrary and could not be professionally defended.

Some reviewers suggested that the existing section on monitoring (§ 219.9(i)) be retained because it is more specific with respect to monitoring and evaluation of regional planning procedures.

There were several recommendations for specific inclusion of the designation of utility corridors in forest planning. In addition, some thought greater emphasis should be given to future Forest Service access needs as well as to the location of subsequent rights-of-way grants in the corridor designation process.

With respect to content of the regional plan, it was suggested that recognition of the Forest Service responsibility to Indian resources and concerns should be given in this section.

Some of the respondents stated § 219.9 should be rewritten to strengthen planning and coordination processes with the States.

Some suggested that the Regional Plan Content section also be modified to include reference to requirements for surface and drinking water protection under the Clean Water Act and Safe Drinking Water Act.

§ 219.9 was viewed as giving nontimber consumptive use (fish, wildlife, recreation) a minor role, therefore, violating the Multiple Use-Sustained Yield Act. In addition, some stated the proposed regulations do not assure that cultural resources will be adequately and consistently protected on all National Forests.

A number of respondents protested deletion of the requirements to develop regional standards and guidelines for minimum biological potential for suitable lands and standards and guidelines for the state of vegetation when an opening ceases to be an opening.

Response: The final rule does not retain the 17 management concerns presently listed under § 219.10. The Department continues to believe that these are better suited to the Forest Service Manual.

Many of these suggestions are proposals to increase the scope of the regional guides. The discussion in § 219.4 summarizes the reasons for narrowly defining that scope. In brief these are: (1) until forest plans are completed there is little information on which to base regional direction beyond that of the 1980 RPA Program; (2) the forests should not be unnecessarily constrained as they examine a broad range of opportunities; (3) some of the requested additions can and will be covered as part of the ongoing development of the 1985 RPA Program update; and (4) limited available planning resources have dictated that the regional guides concentrate on providing that direction needed by the Forests as they develop their forest plans.

Establishment of guidelines for size limitations for openings is a specific requirement of NFMA, Section 6(g)(3)(F)(iv), which may not be disregarded.

Specific requirements for monitoring have not been added because the narrowed scope of the regional guide makes some of the requirements of the current rule inappropriate and specific requirements are considered to be more appropriate to the Forest Service Manual.

The specifics of utility corridor planning are the proper subject of the standards and guidelines required by § 219.9(4)(iv) and the forest plans. Such

specifics are not considered appropriate for these regulations.

The question of recognition of and coordination with Indian resources and concerns as well as other public agencies is considered to be adequately treated in § 219.7, and, therefore, has not been addressed in § 219.9.

Reference to the requirements of the Clean Water Act and the Safe Drinking Water Act has been included in § 219.23, rather than § 219.9 as suggested.

The concern about over-emphasis on timber stems from the fact that three of the five specifically required standards and guidelines deal with timber. This is a direct reflection of the fact that the NFMA devotes a disproportionate share of its specific requirements to the timber resource. In both cases this is because the timber activities affect all the resources so strongly. The regulations do provide for any other standards and guidelines that are needed.

Regulations covering cultural resources were covered in § 219.13(l) which is redesignated § 219.24 in the final rule. § 219.9(b) as given in the February 22 proposed rule has been incorporated into § 219.8(a). A new § 219.9(b) has been added to emphasize the fact that existing regional standards and guidelines present in the directive system remain in effect until altered. Standards for minimum biological growth potential, and the duration of openings are addressed in §§ 219.14 and 219.17 in the final rule and are discussed at those sections.

A few other editorial changes were made for clarity.

Section 219.10 Forest Planning—General Procedures

Summary of Major Comments: The proposed paragraph (e) on plan implementation was apparently unclear and confusing and, therefore, generated a great deal of comment concerning the authority of the Forest Service to change proposed scheduling according to available funding.

Paragraph (f) was viewed as authorizing amendments without the need for an environmental impact statement unless the Forest Service determines the amendment is "significant." Also, the proposed changes did not state how the public should be notified when insignificant changes in the plan are to be implemented.

Proposed changes in paragraph (g) on revisions would have allowed forest plans to "ordinarily be revised on a 10-year cycle or at least every 15 years." This was interpreted by many as allowing the life of a forest plan to extend up to 15 years without revision, raising several questions, such as how this time period relates to the RPA cycle.

In addition, there were a few comments on appeals of the Regional Forester's decision to approve a forest plan. Several stated that the proposed rules do not provide the same clear procedure for appeals that are in the existing rules.

Response: The implementation section has been rewritten to clarify the original intent and to state, as this section does in the existing rules, when it is necessary to prepare an environmental impact statement.

The final rule on amendments has not been changed because, as previously stated, the NEPA criteria for determining the need for an EIS have not been abrogated. The responsible officer always must make that decision.

The Department added the 15-year revision cycle because it is the time required by the NFMA. It should be noted that 10 years is "ordinarily" when revisions will occur and the 15-year cycle is required by statute (16 U.S.C. 1604(f)(5)). The final rule preserves the requirement for a review every 5 years to determine if revision is appropriate. Therefore, the provision is not changed in the final rules.

The final rule makes no substantive changes in the proposed rule concerning appeals. The new rule is significantly less restrictive than is the current rule and brings forest plans under the provisions of the standard appeals regulations, which are themselves in the process of revision. Specific procedures are spelled out in detail in 36 CFR Part 211, which is as readily accessible as are these regulations.

Section 219.11 Forest Plan Content

Summary of Major Comments: This section received very little comment. However, a few respondents stated that some important informational requirements were deleted such as the issues and management concerns and names and qualifications of the Interdisciplinary Team members.

Response: The issues and concerns are used as part of the NEPA required scoping process and are listed in the environmental impact statement rather than in the forest plan. Similarly, the environmental impact statement requires a list of preparers with their qualifications. Duplication of that information in the plan is unnecessary.

Section 219.12 Forest Planning Process

Summary of Major Comments: Several respondents felt that the proposed regulations in general ignored subsurface resources and, therefore, that reference to subsurface resources should be made throughout this section, e.g., in paragraphs (b) identification of purpose and need; (c) planning criteria; (d) inventory data and information collection; and (g) estimated effects of alternatives.

There were some comments on planning criteria (§ 219.12(c)). The emphasis seemed to be on the need for providing specificity rather than general statements. For instance, some stated that criteria are critical to both guiding the analysis and to openly identifying measures against which alternatives will be evaluated; the regulations should provide specific criteria to be used in the planning process rather than simply stating that criteria will be developed. It was suggested that this would include concise criteria statements designed to assess how well an alternative plan achieves the stated objective of maximizing net public benefits. Criteria, some felt, should be based on sound and accepted economic principles.

Some expressed concern that reference to guidelines for economic analysis is being deleted in the proposed revisions. Two other criteria were suggested to be added to the list in § 219.12(c): The President's Statement of Policy for RPA, and information on supply and demand.

Several urged strengthening the wording in paragraph (c)—"specific criteria may be derived from various sources" by changing "may" to "shall."

The majority of comments centered around the analysis of the management situation (§ 219.12(e)) and the formulation and comparison of alternatives (§ 219.12 (f) and (h)).

Some people suggested that the proposed revisions to Analysis of the Management Situation (AMS) provision should be completely struck in favor of the existing regulations; that the existing regulations correctly require a supply/demand analysis for all resources using the best available techniques to the extent possible.

A respondent suggested that the purpose of the AMS needs amplification. It was suggested that the regulations should state that "the primary purpose of this analysis is to identify resource production potentials, examine present net value opportunity costs of balancing conflicting resources," thereby providing a basis for formulating a range of reasonable alternatives.

Some characterized the revision of the section on formulation of alternatives as eliminating very basic and sound requirements that each alternative be achievable and that each provide for the elimination of reforestation backlogs.

Several respondents stated that the function of developing alternatives is to address the range of public concerns and issues, not to explore different ways of "maximizing" the exploitation of the Forest's resources. In addition, the existing regulations were viewed as more flexible than the proposed regulations.

Several reviewers stated that the starting point for formulating alternatives should not be maximization of present net value; to start only with commodity outputs is to skew the analysis in favor of such outputs. They felt the proposed provisions for evaluating alternatives placed too much stress on dollars and cents values and that the proper criterion is the full range of values.

One group stated that the term "costs" in § 219.12(f)(5) should be more clearly defined to segregate between opportunity costs and fiscal costs.

Some felt that there is insufficient discussion of resource tradeoffs in the proposed regulations and that § 219.12(g) could be used to correct this perceived deficiency.

One group of respondents stated that it is essential that the environmental costs to achieve amenity outputs be displayed and evaluated for determination of present net value. These comments reflected the belief that an alternative that achieves maximum present net value must be displayed as a benchmark providing the basic foundation from which the final plan is determined.

There were many comments that stated the Forest Service would no longer be required to identify a preferred alternative at the draft EIS stage.

In the evaluation of alternatives, one group stated that although forest plans will be required only to compare present net value, they will be required to identify the alternative which comes closest to maximizing net public benefits. They stated that alternatives which maximize both present net value and public net benefits should be identified. Further, it was recommended that all alternatives should be evaluated against the present net value and public net benefits benchmarks with the results prominently displayed in the EIS.

It was recommended that § 219.12(h) be expanded to include several additional factors for evaluating and comparing alternatives—county receipts, community stability, and supply of goods and services relative to local demand.

Another respondent suggested strengthening of paragraph (h) to include the statement from Executive Order 12291, "The alternative involving the least net cost to society shall be chosen."

Others also viewed these revisions as increased emphasis on commodity aspects and, therefore, an unfair analysis.

Still another reviewer saw this section as a well-constructed provision and an excellent approach to determining output potential and maximum net benefits.

Many people felt the proposed revisions weakened the monitoring and evaluation requirements. Several requested that the existing language be retained.

It was stated by some that paragraph (k)(2) on monitoring and evaluation lacks clarity. It should be rewritten to show that the effects of managememt prescriptions are documented in the monitoring process.

Response: References to subsurface resources have not been added because this section covers the general process requirements without specific reference to any resources.

The suggestions for more specificity in defining criteria were carefully considered, but the wide range of issues, concerns, and opportunities that exist across 122 widely dispersed National Forests make specific criteria formulated at the national level extremely difficult to develop and probably inappropriate.

The President's Statement of Policy is considered to be the executive portion of the RPA Program, and hence is included in the generic expression "RPA."

§ 219.12(e), (f) and (h) have been further revised in the final rule to address many of the concerns raised by reviewers and to clarify the intent, which is to insure the most complete analysis of ways to combine opportunities with needs. Members of the original Committee of Scientists were very helpful in suggesting some of these revisions.

One purpose of the analysis of the management situation is to establish the range of feasible alternatives. § 219.12(f) requires that alternatives considered in detail lie within that range. But a requirement that all alternatives must appear to be budgetarily achievable, or that all should provide for elimination of backlogs would mean that the decisionmaker, the public, and the Congress would not be aware of all opportunities or the cost and benefits of eliminating the backlog.

Alternatives are formulated to address the items set forth in the last sentence of § 219.12(b) of both the current and proposed revision of the regulations, i.e., " * * * the major public issues, managememt concerns, and use and development opportunities * * * ." Different ways of maximizing the use of forest resources address some management concerns and development opportunities, and in many cases they are also public issues. Therefore, the formulation of alternatives should address maximizing use of various resources, consistent with the protection of other resources and other objectives. However, the goal for formulation of alternatives is not to "maximize" exploitation of the forest's resources, as was inferred by several respondents. Rather, a primary goal is to permit maximization of net public benefits. See the response to comments in § 219.1 for elaboration on this point.

The perceived flexibility of the current regulations is related to imprecise requirements that have led to some confusion on the part of the planning teams. The proposed and final rule attempts to eliminate that confusion.

The final rule preserves in § 219.12(g), a provision that specifically requires estimation of environmental effects, but recognizes that many environmental effects cannot be monetarily evaluated for use in present net value calculations.

The belief that the DEIS would not have to identify a preferred alternative is a misconception that needs addressing. The proposed regulations required this identification in §§ 219.10(b) and 219.12(h). The final regulations continue this requirement in §§ 219.10(b) and 219.12(i).

County receipts, community stability, and supply/demand relationships all represent components of the categories of effects identified in § 219.12(h), and are discussed in more detail in the economic and social analysis guidelines required by current § 219.5(c)(6). These have been issued as Chapter 1970 of the Forest Service Manual.

"Least net cost to society" is simply a negative form of saying "maximize net public benefits."

Section 219.12(k) of the final rule, dealing with monitoring, has been revised and expanded to bring it much closer to the language of the current regulations and to improve the clarity.

Section 219.13 Forest Planning-Resource Integration Requirements

Almost 65 percent of the respondents referred to this section of the proposed rule. In the final rule this section has been recodified and the material previously included in § 219.13 is now found in § 219.13 through § 219.26. This change was made to facilitate references, improve clarity, and make particular subject matter easier to

locate. Because of the volume of comments on this section, they have been grouped by sub-section.

Section 219.13(b) Timber Resource Land Suitability (§ 219.14 in Final Rule)

Summary of Major Comments: The existing regulations were viewed by many as protective of lands that are fragile and less productive by requiring that the biological growth standard used to define commercial timberland be considered on a regional basis. The proposed regulations set the standard nationally at 20 cubic feet/acre/year. Many respondents believe this would result in more timber being harvested on lands where regeneration is less likely to occur. There were comments that lands with a biological growth potential of less than 50 cubic feet/acre/year are not economically or physically suitable for timber management.

Another group stated the use of an arbitrarily set biological growth standard should be deleted and allow all stands of timber to be considered for management based on their contribution to net public benefits.

Many opposed the requirement of § 219.13(b)(1)(ii), that unmanaged natural stands should be used as the basis for growth estimates because this conflicts with what is perceived to be the legislative intent of the National Forest Management Act to consider intensive management in defining capable and suitable land.

The concept of determining which lands are "necessary" for timber production as an element of suitability was strongly objectionable to some.

Some suggested that the evaluation of lands necessary for timber production should be made in terms of meeting the timber objective of the alternative being studied.

The proposed revisions eliminated reference to the delineation of "available, capable, and technically suitable" land. Some reviewers felt that elimination of these three categories of suitable land will "mislead the public into believing that *all* land classified not suitable is erosive, cannot be regenerated, and is unproductive." These reviewers felt that it would be desirable to restore the concept of delineating and identifying for the public the lands that are not available, capable, and technically suitable.

Response: After a great deal of discussion with the members of the original Committee of Scientists as well as within the Department, it was concluded that the economic suitability test called for by the Act could only be made on a site-specific basis, and that 20 cubic feet per acre, per year or any other national, or even regional, standard could not be professionally supported.

Therefore, reference to a particular growth standard was dropped in the final rule. As now stated, the economic suitability test is defined in § 219.14 (c) and (d) and depends upon the objectives of the particular alternative that is selected and approved as the preferred. Each alternative could have a different area of suitable land.

In the final rule, the term "necessary" for timber production has been changed to "appropriate" for timber production, and the cost effectiveness criteria has been changed slightly to clarify its meaning.

The Department sees nothing in the proposed rule that would lead one to assume that all unsuitable land was erosive or unproductive. To avoid the confusion of maintaining three separate categories of land, the final rule keeps only the "suitable" category.

Section 219.13(c) Timber Resource Management Practices (§ 219.15 in Final Rule)

Summary of Major Comments: It was pointed out that this section referred to any vegetation management practice and therefore, was misnamed.

Response: In the final rule, it is retitled "Vegetation Management Practices."

Section 219.13(d) Timber Resource Sale Schedule (§ 219.15 in Final Rule)

Summary of Major Comments: Among the most controversial issues of the proposed revisions were the changes in the section dealing with departure.

The proposed regulations would have deleted the requirement that departures be approved by the Chief; respondents generally perceived this change to mean that departures could become the "rule rather than the exception." However, some agreed that timber sale scheduling including departures, should properly be determined by the Regional Forester, not the Chief; and the proposed deletion was viewed as a commendable change.

Many saw a greater potential for departures under the proposed revisions. As they interpreted the proposed revision, a departure schedule could conceivably be drawn up for *any* forest plan alternative, and departure schedules could be implemented as funding became available, without public review or EIS.

A fourth "trigger" to require examination of departure alternatives was included in the proposed revision (that is, whenever it is reasonable to expect that net public benefits would increase); this proposal generated much response. Many viewed the new departure criteria as a totally unacceptable principle for management of the National Forests. It was seen as a violation of NFMA.

One group recommended that the entire section be rewritten in a manner that does not cast departure alternatives as the "rare" exception. They stated that the nondeclining yield harvest policy is an extremely inflexible constraint in forest management. This group suggested that the regulations be written to require the Forest Supervisor to provide justification for imposing nondeclining yield rather than justification for allowing a departure.

Several respondents supported the proposed revisions related to culmination of mean annual increment (CMAI), stating that the change is appropriate under the statute. Some questioned the limitations to "natural stands."

Conversely, others thought the proposed change represented a radical departure from present policy. These reviewers stated that since intensively managed stands of timber reach culmination many years after natural stands, this would reduce rotation ages by 50–100 percent or more. They interpret NFMA as, therefore, being violated, as it requires that stands, not forest types, reach culmination before harvesting.

Still another view maintained that the rotation age should be determined by financial and multiple use consideration through the planning process rather than being constrained by culmination of mean annual increment. Therefore, it was suggested that this portion be amended to allow the analysis of rotation ages and factors other than CMAI in cases where greater net public benefits may result.

Some stated that the existing regulations provide flexibility to lengthen the rotation for purposes other than timber. In their view, the proposed regulations would provide a minimum legal determination of maturity and would remove the existing flexibility "in favor of greater harvest by calculating a shorter rotation age."

Response: The final rule retains language granting approval authority for all forest plans to the Regional Forester. The concern that a departure schedule could be implemented in response to budget changes reflects a misunderstanding of the sale schedule which actually sets the allowable sale volume by decade. Departures refer only to a decadal decline from the previous decade, while adjustments of sale volumes in response to actual

appropriations are made on an annual basis. These annual adjustments are subject to the requirement of § 219.14(h)(3) of the proposed rule, (§ 219.27(c)(2) of the final rule), that the average annual sale volume for the decade must not exceed the allowable sale quantity. § 219.10(e) has been expanded in the final rule to eliminate the concern expressed.

The proposal to require justification of nondeclining yield would clearly be a violation of NFMA.

In the final rule the Department has responded to the public's concern by deleting the provision that consideration should be given to departing from nondeclining yield whenever it is reasonable to expect that net public benefits would increase. The language of NFMA concerning achieving overall multiple use objectives has been substituted.

In response to concerns over rotation ages, the Department has, in the final rule, changed § 219.13(d)(ii)(C), (§ 219.16(a)(2)(iii) in the final rule), to require that culmination of mean annual increment be based on the management intensity and utilization standards expected to be used. Also, net public benefit was dropped from proposed language in this section and replaced with the terminology "overall multiple use objectives."

Other minor changes are made in this section to conform to changes made concerning the regional guide.

Section 219.13(e) Wilderness (§ 219.17 in Final Rule)

Summary of Major Comments: The proposed revisions would require that only roadless areas of 5,000 acres or more be considered for wilderness designation. Many respondents objected to an acreage limitation for wilderness consideration. Some stated that the restrictions (if in fact the 5,000-acre became required) should not apply to evaluation of areas adjacent to existing wilderness areas and wilderness study areas.

Others expressed concern with a "continuing study" of Forest Service lands for possible wilderness designation; suggestions were made that continued consideration for wilderness should be limited to areas already recommended for wilderness and areas designated for further planning.

Several supported the proposal to limit the size of areas to be evaluated for wilderness.

Many stated that the NFMA does not establish an arbitrary acreage limitation for wilderness, nor does the Wilderness Act justify the proposed change; therefore, the limitation would violate the law.

A few stated if nonwilderness roadless areas were to be reviewed in plan revisions, the current wilderness should also be reviewed.

Exception was taken by several reviewers to inclusion of the word "essentially" in the phrase that such lands will be evaluated if they are "* * * currently essentially roadless." The word "essentially" should be deleted because the process pertains only to roadless areas, and the area can only be either roaded or unroaded.

Still others pointed out that the 5,000-acre limitation is inappropriate for the Eastern United States where only small enclaves of undisturbed land remain.

Response: In response to these comments, reference to a 5,000-acre minimum has been deleted. The requirement to review roadless areas for possible wilderness recommendation represents the Department's response to an important current public issue. While there is nothing to prevent a forest from analyzing the effects of existing wilderness areas on the total forest program (and most forests will do so as part of the analysis of the management situation), alternatives that would require redesignation of existing wilderness are not required. The term "essentially roadless" remains in the final rule because a road is difficult to define at the margin between trail and road.

Section 219.13(f) Wilderness Management (§ 219.18 in Final Rule)

Summary of Major Comments: It was proposed that since limited action or development is permitted within wilderness areas under certain circumstances, these activities should be included in the planning criteria in subsection (f) Wilderness Management.

In addition, some reviewers felt that subsection (f) should clarify the Forest Service's understanding of existing rights of lessees that constitute "valid existing rights" after December 31, 1983.

Further, a few reviewers strongly recommended the inclusion of a new subsection stating that stipulations for oil and gas leases will be developed on a standard of reparable vs. irreparable harm.

Response: Upon careful consideration of these comments, the Department has concluded that the language in the proposed rule which repeats that of the existing regulations is adequate and no changes have been made in the final rule. The additions requested by respondents seem more appropriate for the Forest Service Manual.

Section 219.13(g) Fish and Wildlife Resource (§ 219.19 in Final Rule)

Summary of Major Comments: A great deal of the public comments concerned § 219.13(g), Fish and Wildlife Resource. Only a very few supported the proposed revision. Generally, the proposed revision was viewed as weakening the fish and wildlife section.

The proposed regulation eliminated the requirement that habitat of certain species be "maintained and improved." To many respondents, this deletion would allow substantial reductions in fish and wildlife populations.

In the discussion of desired future condition of fish and wildlife populations and habitat, substitution of the term "where practical" for the original terminology "where technically feasible" was viewed as a lowering of standards.

There was opposition regarding replacing the term "management indicator species" with "selected species." The term "selected species" is seen by some as less scientific.

In contrast, some viewed the revisions relating to indicator species as probably beneficial. This view was based on the fact that the regulations would no longer require just maintenance and improvement of habitat but would allow for flexibility in providing for maintenance of the species or habitat.

Response: In response to these concerns, the panel of consultants asked Dr. William Webb to work with the Forest Service to develop satisfactory language. Language incorporating many of his suggestions has been included in this final rule. The final rule maintains the requirement for species viability, continues the concept of management indicator species, and stipulates that maintenance and improvement goals must be consistent with other resource goals.

Section 219.13(h) Grazing Resource (§ 219.20 in Final Rule)

Summary of Major Comments: Grazing was not addressed very often by the public. However, it was suggested that this subsection convey the fundamental concept that livestock grazing encompasses more than forage for livestock; that it also provides an important source of food and fiber for the Nation. A change was also suggested to reflect livestock grazing as a management tool to help improve habitat for wildlife, reduce fire hazard, improve watersheds, and enhance soil resources.

A few saw the grazing provision as being weakened by the proposed changes.

Response: It is the Department's belief that regulations are not the proper place for justifying programs. The only changes in the final rule are to improve clarity.

Section 219.13(i) Recreation Resource (§ 219.21 in Final Rule)

No comments were received and no significant changes were made in this section. The opening sentence was modified to clarify that the degree of recreation opportunity provided for in a forest plan must be consistent with needs and demands for all major resources. The resource integration requirements in existing § 219.12(i)(1)–(7), (retained in the final rule as § 219.21(a)–(g)) and elsewhere in the regulations dictate this clarification.

Section 219.13(j) Mineral Resource (§ 219.22 in Final Rule)

Summary of Major Comments: Some reviewers expressed disappointment that the proposed rules lacked understanding of mineral occurrence and the importance of minerals to the economy and national security.

Several suggested inclusion of "geology and energy" in titling the subsection to conform to the proposed changes.

It was suggested that the subsection be strengthened to respond to the Administration's emphasis to expedite the orderly development of mineral and energy resources.

Response: See the Department's comments on the treatment of mineral resources under Regional Planning (§ 219.8). There have been no significant changes in the comparable section of the final rule.

Section 219.13(k) Water and Soil Resource (§ 219.23 in Final Rule)

Summary of Major Comments: Some requested that the original existing language in § 219.13(k), Water and Soil Resource, be reinstated.

Others requested a requirement to identify man-made developments planned for the National Forest be added to the rule.

Response: It is not believed necessary to add a water resource developments identification requirement because Forest Service planned installations would have to be included as part of any overall plan, and developments planned by other agencies would be surfaced during compliance with § 219.7 and addressed appropriately in the plan. There are no changes in this section in the final rule.

Section 219.13(l) Cultural Resource (§ 219.24 in Final Rule)

Summary of Major Comments: Several reviewers requested the addition of two items—protection of historic and cultural resources from forest management practices, including timber harvesting, pesticides, and road construction, and protection of the sacredness of native American sacred sites.

Response: Language has been added to the final rule to strengthen protection of cultural resources.

Section 219.13(m) Research Natural Areas (§ 219.25 in Final Rule)

Summary of Major Comments: Several respondents said that they felt that the proposed regulations emphasized a national network as opposed to a regional or State network. They recommended that Research Natural Areas (RNA's) should be selected to be of value regionally as well as filling national needs.

At least one reviewer expressed disappointment that no regulatory provision was made for other kinds of special areas; such as geologic, botanic, and paleontologic. Because they are not specifically provided for, it was felt they are being overlooked.

Several suggested that transportation should be treated as a resource and suggested inclusion of a new provision labeled "natural corridors" or "transmission corridor resource."

Response: A purpose of establishing a national network of RNA's is to prioritize the Nation's allocation of such areas. There should be little question that areas important to the national network would also be important regionally. The final rule preserves the language of the proposed rule.

The Department believes that consideration of other special types of areas can be adequately addressed in the Forest Service Manual.

In the context of NFMA, transportation is a facility rather than a resource and is adequately covered in §§ 219.9(a)(4)(iv) and 219.27(a)(9).

A new § 219.26 consisting of the first part of the section on diversity that was in § 219.14(g) of the proposed rule has been moved to this portion of the regulations because it deals with procedural integration requirements, rather than management requirements.

Section 219.14 Management Requirements

In the final rule, this section is recoded § 219.27, and it has been reorganized to improve clarity.

Summary of Major Comments: With respect to management prescriptions, several reviewers suggested that energy and mineral exploration should be provided for.

Much of the controversy in this section centered around "when timber stand openings cease to be openings." Several said prescribing forest practices nationally is professionally unacceptable. Some stated the decision might best be left to the regional or forest plan, based on the following reasons—visual quality, other multiple-use objections, and production of timber. Others suggested a minimum height should be obtained before classifying a stand as "established," because loose interpretation will allow adjacent clearcutting before soil and water conditions have stabilized.

Some felt defining the standard in regulations is a positive change, but the definition of when openings are no longer considered openings was still ambiguous.

With respect to diversity, some stated the proposed rules dilute the value and intent of the NFMA and that reductions in diversity of plant and animal communities are inappropriate. Many felt that the proposed revisions, although appearing to be minor word changes, represent a change in management philosophy "designed to weaken management controls for resource protection and enhancement."

The proposed § 219.14(h)(2) was viewed by many as easing the way for development of roadless areas. The proposed language was viewed by some as requiring timber sales to be planned on all lands that are considered suitable for timber management, a requirement they feel is clearly in violation of the Multiple Use-Sustained Yield Act of 1960.

The proposed revision requiring that "technology and knowledge exist" to adequately restock within 5 years after final harvest before cutting could occur was viewed by some reviewers as a violation of the original intent of the Congress. The existing language was, therefore, thought preferable.

Others strongly recommended that additional time be allowed for restocking under natural methods which reflects true time requirements on the ground.

Many of the respondents expressed concern over what is perceived as an omission of integrated pest management as an operating principle for dealing with insects and pest problems. Many requested the existing language should be maintained and strengthened to encourage nonchemical solutions to insect problems.

Response: The necessary coordination for energy and mineral exploration is provided for in both the final and proposed rule. See comment on this subject under § 219.4.

The Department's position on duration of openings is that the characteristics needed for an opening depend upon the specific objectives for a given area, and they would vary with such things as wildlife species present, terrain, existing visual characteristics of the area as a whole, watershed conditions, etc. The proposed and final rules establish, *as a minimum,* that an opening remains an opening until a new stand is established, and regional guides establish guidelines for determining variations to this minimum. Additional opening guidelines to satisfy the needs for resources other than timber may be established locally depending upon multiple-use objectives.

To respond to the concern about diversity, the word "only" has been added to the clause "* * * reductions * * * may be prescribed *only* where needed * * *" in § 219.27(g).

While the intent of § 219.14(h)(2) was to plan to harvest a volume equal to the volume of growth on all suitable lands, it was never contemplated that individual sales would actually be located in the forest planning process. The proposed language is not necessary to achieve the desired result, however, and it is deleted in the final rule.

The language change from the existing regulations to the proposed concerning ability to regenerate a stand is simply a more precise wording for the concept conveyed by "* * * can be adequately restocked * * *," i.e., the "* * * technology and knowledge exists to adequately restock. * * *" Because of the increased precision, the final rule retains the language of the proposed rule.

Section 219.27(a)(3) of the final rule has been reworded to respond to suggestions on integrated pest management. Additionally, the definition of integrated pest management has been restored to § 219.3. A third addition in the final rule dealing with pest management is a new § 219.27(c)(7) requiring coordination of silvicultural practices with the needs of pest management.

Section 219.14(i) on monitoring and evaluation has been moved and recodified to § 219.12(k)(5) in the final rule.

Section 219.15 Research

There were no comments on this section. The only change in the final rule is recodification to § 219.28.

Section 219.16 Transition Period

Summary of Major Comments: There was some objection expressed to the provision which would allow a forest plan to become effective before the regional plan (guide) is approved. Permitting forest plans to become effective before the regional plan (guide) is a carryover from the current regulations and is necessary to prevent unacceptable delays in forest planning.

Several suggested the regulations allowing the Mount St. Helens Land Management Plan appeared to preempt congressional action which could provide more thorough protection.

Response: This section was recodified to § 219.29. The provision for Mount St. Helens is necessary to permit the independent development of the Mount St. Helens Land Management Plan. The timing of the development of the plan in relation to imminent congressional action is such as to make it extremely unlikely that any action could occur that would preempt Congress.

Section 219.29(b) has been added to permit phasing in those forest plans and regional guides that have already been completed through the DEIS stage or beyond, so that it is not mandatory during the current round of planning to subject then to new requirements resulting from amendment of these regulations.

Conclusion

The public response to the proposed rule demonstrated a strong interest in management of the National Forests and was very helpful in developing the final rule. The assistance of the members of the former Committee of Scientists was particularly valuable especially in sections on analysis of the management situation and the formulation and evaluation of alternatives. The final rule is responsive to the preponderance of comments, but as is always the case, all suggestions could not be incorporated. The major changes between the final rule and the proposed rule result from decisions to retain much more of the language of the current regulations than originally proposed. Specifically, the final rule:

—Retains the 14 planning principles from the current regulations;

—Clarifies the relationship between multiple use, net public benefits, and present net value;

—Redefines six terms and adds four new ones to improve readability and understanding;

—Retains provisions for adjusting assigned resource objectives;

—Retains most of the language from the current regulations dealing with public participation process and the interdisciplinary team;

—Deletes the proposal to permit denial of public participation if it would be reasonably burdensome;

—Strengthens public planning coordination requirements;

—Renames the regional plan as a regional guide and clarifies the intent of that document;

—Clarifies the authority of the Forest Supervisor to make adjustments in the plan as a result of differences between planned and appropriated budgets and specifies when these differences may require an EIS;

—Extensively revises the sections dealing with analysis of the management situation and formulation and evaluation of alternatives;

—Revises monitoring requirements to bring them closer to the language of the current regulations;

—Removes entirely all reference to a minimum growth standard, leaving to each forest the evaluation of economic suitability;

—Deletes increasing net public benefit as a trigger for consideration of departures from nondeclining yield or harvesting prior to culmination of mean annual increment;

—Changes the determination of culmination of mean annual increment from that for natural stands to that which would occur under the management intensity and utilization standards expected to be used;

—Eliminates the 5,000-acre minimum for wilderness consideration;

—Revises the section on wildlife and fish;

—Strengthens protection of cultural resources;

—Strengthens the requirement for maintaining diversity of plant and animal species;

—Retains the term "integrated pest management" and strengthens the description of that concept and its use;

—Reorganizes and recodifies the section on Resource Intergration Requirements to simplify citations to these sections and to assist readers in more readily locating specific resource requirements; and,

—In general, seeks to improve readability of the regulations through use of simpler terms and improved sentence structure, reorganization and more precise word choice.

In addition to resolving most of the concerns expressed by the respondents, the final rule integrates achievement of the goals of regulatory relief with the goal of refining the National Forest land and resource management planning process to simplify and clarify the

procedures and, thereby, enhance the quality and utility of planning.

Finding of No Significant Environmental Impact

An environmental assessment and report addressing the impacts of the proposed regulation and the need for preparing an environmental impact statement was printed as Appendix A with the proposed rule in the **Federal Register**, Volume 47, No. 35 (February 22, 1982). The changes reflected in the final rule are primarily reinstatement of provisions contained in the existing regulations promulgated on September 17, 1979. The potential effects of these provisions were analyzed and displayed in the environmental impact statement published in the **Federal Register**, Volume 44, No. 181 (September 17, 1979), to which the environmental assessment for the revisions of the regulations is tiered. A review of other changes from the proposed regulations in the final version indicates no potential for significant effect on the physical and biological components of the human environment. The changes are editorial or apply to planning procedure. Any direct and specific impacts on the environment will be analyzed and displayed in environmental impact statements prepared for forest plans and regional guides.

Based on the above reasons and the environmental assessment prepared for the proposed regulations, which is herein incorporated by reference, it is hereby determined that revision of these regulations is not a major federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement in addition to the one already prepared for the regulations promulgated September 17, 1979, will not be prepared.

Regulatory Impact

The Assistant Secretary for Natural Resources and Environment has determined that the regulations in their present form are considered "major" as defined in Executive Order 12291. However, for the reasons explained in the notice of proposed rulemaking, published in the **Federal Register**, Volume 47, No. 35 (February 22, 1982), the Office of Management and Budget has waived the requirement to carry out a regulatory impact analysis.

The Assistant Secretary for Natural Resources and Environment has determined that this regulation is clearly within authority delegated by law and consistent with congressional intent. This determination is supported by the following Memorandum of Law prepared by the Office of the General Counsel, United States Department of Agriculture:

Memorandum of Law

Legal Authority for Revised National Forest System Land and Resource Management Planning Regulations, 36 CFR Part 219

The revision of the National Forest System Land and Resource Management Planning Regulations, codified in 36 CFR Part 219, is clearly within the authority of the Department of Agriculture, and consistent with congressional intent. Section 6(g) of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1604(g)) (hereafter, RPA), explicitly requires the Secretary of Agriculture to issue regulations that set out the process for the development and revision of land management plans for units of the National Forest System, and regulations that establish management planning standards and guidelines described in the Act. Section 15 of the same statute (16 U.S.C. 1613) directs the Secretary to promulgate such regulations as he deems necessary and desirable to carry out the provisions of the Act.

The final regulations to implement the above RPA requirements, presently codified in 36 CFR Part 219, were published in the **Federal Register**, Volume 44, No. 181 on September 17, 1979. All of the regulations are directly related to the land and resource management planning process for National Forest System units, to standards and guidelines for that planning, to national level planning required by Sections 3 and 4 of RPA (16 U.S.C. 1601–1602), or to regional level planning which the Secretary determined to be desirable to coordinate national level and forest level planning. The current revision clarifies and streamlines the planning regulations, without deleting any of the provisions required by Section 6(g) of RPA, or adding requirements not within the promulgating authority given to the Secretary by Section 15 of the statute.

A review of the RPA and its legislative history indicates that Congress, in enacting the statute and amendments thereto, intended to create a flexible framework for environmentally sound, economically efficient, and productive multiple-use and sustained-yield management of the National Forest System. A review of the revised regulations indicates full consistency with this intent.

The Assistant Secretary for Natural Resources and Environment has also determined that the factual conclusions upon which this regulation is based have substantial support in the agency record, viewed as a whole, with full attention to public comments in general, and the comments of persons directly affected by the rule in particular.

Small Entity Impact

The Assistant Secretary for Natural Resources and Environment has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule imposes no direct or indirect costs on small entities. It requires no paperwork or recordkeeping; it does not affect the competitive position of small entities in relation to large entities; it does not affect the ability of a small entity to stay in the market; and it does not require that small entities obtain professional assistance to meet regulatory requirements.

List of Subjects in 36 CFR Part 219

National forests; Environmental impact statement; Timber; Fish and wildlife; Water resources; Range management; and Recreation.

Therefore, for the reasons set forth in the preamble, Part 219—Planning, Subpart A—National Forest System Land and Resource Management Planning, Title 36 of the Code of Federal Regulations is revised as follows:

1. The Table of Contents for 36 CFR Part 219—Planning, Subpart A—National Forest System Land and Resource Management Planning, is revised to read as follows:

PART 219—PLANNING

Sec.

219.1 Purpose and principles.
219.2 Scope and applicability.
219.3 Definitions and terminology.
219.4 Planning levels.
219.5 Interdisciplinary approach.
219.6 Public participation.
219.7 Coordination with other public planning efforts.
219.8 Regional planning—general procedure.
219.9 Regional guide content.
219.10 Forest planning—general procedure.
219.11 Forest plan content.
219.12 Forest plan process.
219.13 Forest planning—resource integration requirements.
219.14 Timber resource land suitability.
219.15 Vegetation management practices.
219.16 Timber resource sale schedule.
219.17 Wilderness designation.
219.18 Wilderness management.
219.19 Fish and wildlife resource.
219.20 Grazing resource.
219.21 Recreation resource.
219.22 Mineral resource.
219.23 Water and soil resource.
219.24 Cultural and historic resource.

Sec.
219.25 Research natural areas.
219.26 Diversity.
219.27 Management requirements.
219.28 Research.
219.29 Transition period.

Authority. Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613); and 5 U.S.C. 301.

2. 36 CFR Part 219, Subpart A—National Forest System Land and Resource Management Planning, is revised to read as follows:

§ 219.1 Purpose and principles.

(a) The regulations in this subpart set forth a process for developing, adopting, and revising land and resource management plans for the National Forest System as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (hereafter, "RPA"). These regulations prescribe how land and resource management planning is to be conducted on National Forest System lands. The resulting plans shall provide for multiple use and sustained yield of goods and services from the National Forest System in a way that maximizes long term net public benefits in an environmentally sound manner.

(b) Plans guide all natural resource management activities and establish management standards and guidelines for the National Forest System. They determine resource management practices, levels of resource production and management, and the availability and suitability of lands for resource management. Regional and forest planning will be based on the following principles:

(1) Establishment of goals and objectives for multiple-use and sustained-yield management of renewable resources without impairment of the productivity of the land;

(2) Consideration of the relative values of all renewable resources, including the relationship of nonrenewable resources, such as minerals, to renewable resources;

(3) Recognition that the National Forests are ecosystems and their management for goods and services requires an awareness and consideration of the interrelationships among plants, animals, soil, water, air, and other environmental factors within such ecosystems;

(4) Protection and, where appropriate, improvement of the quality of renewable resources;

(5) Preservation of important historic, cultural, and natural aspects of our national heritage;

(6) Protection and preservation of the inherent right of freedom of American Indians to believe, express, and exercise their traditional religions;

(7) Provisions for the safe use and enjoyment of the forest resources by the public;

(8) Protection, through ecologically compatible means, of all forest and rangeland resources from depredations by forest and rangeland pests;

(9) Coordination with the land and resource planning efforts of other Federal agencies, State and local governments, and Indian tribes;

(10) Use of a systematic, interdisciplinary approach to ensure coordination and integration of planning activities for multiple-use management;

(11) Early and frequent public participation;

(12) Establishment of quantitative and qualitative standards and guidelines for land and resource planning and management;

(13) Management of National Forest System lands in a manner that is sensitive to economic efficiency; and

(14) Responsiveness to changing conditions of land and other resources and to changing social and economic demands of the American people.

§ 219.2 Scope and applicability.

The regulations in this subpart apply to the National Forest System, which includes special areas, such as wilderness, wild and scenic rivers, national recreation areas, and national trails. Whenever the special area authorities require additional planning, the planning process under this subpart shall be subject to those authorities.

(a) Unless inconsistent with special area authorities, requirements for additional planning for special areas shall be met through plans required under this subpart.

(b) If, in a particular case, special area authorities require the preparation of a separate special area plan, the direction in any such plan may be incorporated without modification in plans prepared under this subpart.

§ 219.3 Definitions and terminology.

For purposes of this subpart the following terms, respectively, shall mean:

Allowable sale quantity: The quantity of timber that may be sold from the area of suitable land covered by the forest plan for a time period specified by the plan. This quantity is usually expressed on an annual basis as the "average annual allowable sale quantity."

Base sale schedule: A timber sale schedule formulated on the basis that the quantity of timber planned for sale and harvest for any future decade is equal to or greater than the planned sale and harvest for the preceding decade, and this planned sale and harvest for any decade is not greater than the long-term sustained yield capacity.

Biological growth potential: The average net growth attainable in a fully stocked natural forest stand.

Capability: The potential of an area of land to produce resources, supply goods and services, and allow resource uses under an assumed set of management practices and at a given level of management intensity. Capability depends upon current conditions and site conditions such as climate, slope, landform, soils, and geology, as well as the application of management practices, such as silviculture or protection from fire, insects, and disease.

Corridor: A linear strip of land identified for the present or future location of transportation or utility rights-of-way within its boundaries.

Cost efficiency: The usefulness of specified inputs (costs) to produce specified outputs (benefits). In measuring cost efficiency, some outputs, including environmental, economic, or social impacts, are not assigned monetary values but are achieved at specified levels in the least cost manner. Cost efficiency is usually measured using present net value, although use of benefit-cost ratios and rates-of-return may be appropriate.

Diversity: The distribution and abundance of different plant and animal communities and species within the area covered by a land and resource management plan.

Even-aged management: The application of a combination of actions that results in the creation of stands in which trees of essentially the same age grow together. Managed even-aged forests are characterized by a distribution of stands of varying ages (and, therefore, tree sizes) throughout the forest area. The difference in age between trees forming the main canopy level of a stand usually does not exceed 20 percent of the age of the stand at harvest rotation age. Regeneration in a particular stand is obtained during a short period at or near the time that a stand has reached the desired age or size for regeneration and is harvested. Clearcut, shelterwood, or seed tree cutting methods produce even-aged stands.

Forest land: Land at least 10 percent occupied by forest trees of any size or formerly having had such tree cover and not currently developed for non-forest use. Lands developed for non-forest use include areas for crops, improved pasture, residential, or administrative

areas, improved roads of any width, and adjoining road clearing and powerline clearing of any width.

Goal: A concise statement that describes a desired condition to be achieved sometime in the future. It is normally expressed in broad, general terms and is timeless in that it has no specific date by which it is to be completed. Goal statements form the principal basis from which objectives are developed.

Goods and services: The various outputs, including on-site uses, produced from forest and rangeland resources.

Integrated pest management: A process for selecting strategies to regulate forest pests in which all aspects of a pest-host system are studied and weighed. The information considered in selecting appropriate strategies includes the impact of the unregulated pest population on various resources values, alternative regulatory tactics and strategies, and benefit/cost estimates for these alternative strategies. Regulatory strategies are based on sound silvicultural practices and ecology of the pest-host system and consist of a combination of tactics such as timber stand improvement plus selective use of pesticides. A basic principle in the choice of strategy is that it be ecologically compatible or acceptable.

Long-term sustained-yield timber capacity: The highest uniform wood yield from lands being managed for timber production that may be sustained under a specified management intensity consistent with multiple-use objectives.

Management concern: An issue, problem, or a condition which constrains the range of management practices identified by the Forest Service in the planning process.

Management direction: A statement of multiple-use and other goals and objectives, the associated management prescriptions, and standards and guidelines for attaining them.

Management intensity: A management practice or combination of management practices and associated costs designed to obtain different levels of goods and services.

Management practice: A specific activity, measure, course of action, or treatment.

Management prescription: Management practices and intensity selected and scheduled for application on a specific area to attain multiple-use and other goals and objectives.

Multiple use: The management of all the various renewable surface resources of the National Forest System so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some lands will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

Net public benefits: An expression used to signify the overall long-term value to the nation of all outputs and positive effects (benefits) less all associated inputs and negative effects (costs) whether they can be quantitatively valued or not. Net public benefits are measured by both quantitative and qualitative criteria rather than a single measure or index. The maximization of net public benefits to be derived from management of units of the National Forest System is consistent with the principles of multiple use and sustained yield.

Objective: A concise, time-specific statement of measurable planned results that respond to pre-established goals. An objective forms the basis for further planning to define the precise steps to be taken and the resources to be used in achieving identified goals.

Planning area: The area of the National Forest System covered by a regional guide or forest plan.

Planning period: One decade. The time interval within the planning horizon that is used to show incremental changes in yields, costs, effects, and benefits.

Planning horizon: The overall time period considered in the planning process that spans all activities covered in the analysis or plan and all future conditions and effects of proposed actions which would influence the planning decisions.

Present net value: The difference between the discounted value (benefits) of all outputs to which monetary values or established market prices are assigned and the total discounted costs of managing the planning area.

Public issue: A subject or question of widespread public interest relating to management of the National Forest System.

Real dollar value: A monetary value which compensates for the effects of inflation.

Receipt shares: The portion of receipts derived from Forest Service resource management that is distributed to State and county governments, such as the Forest Service 25 percent fund payments.

Responsible line officer: The Forest Service employee who has the authority to select and/or carry out a specific planning action.

Sale schedule: The quantity of timber planned for sale by time period from an area of suitable land covered by a forest plan. The first period, usually a decade, of the selected sale schedule provides the allowable sale quantity. Future periods are shown to establish that long-term sustained yield will be achieved and maintained.

Silvicultural system: A management process whereby forests are tended, harvested, and replaced, resulting in a forest of distinctive form. Systems are classified according to the method of carrying out the fellings that remove the mature crop and provide for regeneration and according to the type of forest thereby produced.

Suitability: The appropriateness of applying certain resource management practices to a particular area of land, as determined by an analysis of the economic and environmental consequences and the alternative uses foregone. A unit of land may be suitable for a variety of individual or combined management practices.

Sustained-yield of products and services: The achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the National Forest System without impairment of the productivity of the land.

Timber production: The purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use. For purposes of this subpart, the term "timber production" does not include production of fuelwood.

Uneven-aged management: The application of a combination of actions needed to simultaneously maintain continuous high-forest cover, recurring regeneration of desirable species, and the orderly growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products. Cutting is usually regulated by specifying the number or proportion of trees of particular sizes to retain within each area, thereby maintaining a planned distribution of size classes. Cutting methods that develop and maintain uneven-aged

stands are single-tree selection and group selection.

§ 219.4 Planning levels.

(a) *General guideline.* Planning requires a continuous flow of information and management direction among the three Forest Service administrative levels: national, regional, and forest. Management direction shall: (1) Include requirements for analysis to determine programs that maximize net public benefits, consistent with locally derived information about production capabilities; (2) reflect production capabilities, conditions and circumstances observed at all levels; and (3) become increasingly specific as planning progresses from the national to the forest level. In this structure, regional planning is a principal process for conveying management direction from the national level to the forest level and for conveying information from forest level to the national level. The planning process is essentially iterative in that the information from the forest level flows up to the national level where in turn information in the RPA Program flows back to the forest level.

(b) *Planning levels and relationships.*—(1) *National.* The Chief of the Forest Service, shall develop the Renewable Resource Assessment and Program (hereafter, "RPA Assessment and RPA Program") according to Sections 3 and 4 of the RPA.

(i) *RPA Assessment.* The RPA Assessment shall include analysis of present and anticipated uses, demand for, and supply of the renewable resources of forest, range, and other associated lands with consideration of, and an emphasis on, pertinent supply, demand, and price relationship trends; an inventory of present and potential renewable resources and an evaluation of opportunities for improving their yield of tangible and intangible goods and services, together with estimates of investment costs and direct and indirect returns to the Federal Government; a description of Forest Service programs and responsibilities in research, cooperative programs, and management of the National Forest System; and analysis of important policy issues and consideration of laws, regulations, and other factors expected to influence and affect significantly the use, ownership, and management of forest, range, and other associated lands. The RPA Assessment shall be based on the future capabilities of forest and rangelands and shall include information generated during the regional, forest, and other planning processes.

(ii) *RPA Program.* The RPA Progam shall consider the costs of supply and the relative values of both market and nonmarket outputs. The alternatives considered shall include national renewable resource goals and quantified objectives for resource outputs and other benefits and shall be designed to represent a range of expenditure levels sufficient to demonstrate full opportunities for management. A portion of each national objective developed in the RPA Program shall be distributed to each region and be incorporated into each regional guide. Resource objectives shall be tentatively selected for each forest planning area. In formulating the objectives for each region and forest planning area, local supply capabilities and market conditions will be considered.

(2) *Regional.* Each Regional Forester shall develop a regional guide. Regional guides shall establish regional standards and guidelines as required by § 219.9(a). Consistent with resource capabilities, regional guides shall reflect goals and objectives of the RPA Program. For planning purposes, the regional guides shall display tentative resource objectives for each Forest from the RPA Program. Regional guides shall also provide for general coordination of National Forest System, State and Private Forestry (S&PF), and Research programs. The Chief shall approve the regional guide. The Regional Forester may request adjustment of assigned regional objectives. Any adjustment shall require the approval of the Chief, Forest Service.

(3) *Forest.* Each Forest Supervisor shall develop a forest plan for administrative units of the National Forest System. One forest plan may be prepared for all lands for which a Forest Supervisor has responsibility; or separate forest plans may be prepared for each National Forest, or combination of National Forests, within the jurisdiction of a single Forest Supervisor. A single forest plan may be prepared for the enitre Tongass National Forest. These forest plans shall constitute the land and resource management plans as required under Sections 6 and 13 of the RPA. A range of resource objectives shall be formulated as alternatives and evaluated, including at least one alternative which responds to and incorporates the tentative RPA Program resource objectives displayed in the regional guide. Based on this evaluation, the Forest Supervisor shall recommend objectives for incorporation into the forest plan to the Regional Forester. The Regional Forester shall approve the forest plan. This approval may incorporate adjustment of the tentative RPA Program resource objectives displayed in the regional guide.

§ 219.5 Interdisciplinary approach.

(a) A team representing several disciplines shall be used for regional and forest planning to insure coordinated planning of the various resources. Through interactions among its members, the team shall integrate knowledge of the physical, biological, economic and social sciences, and the environmental design arts in the planning process. The team shall consider problems collectively, rather than separating them along disciplinary lines. Team functions include, but are not limited to—

(1) Assessing the problems and resource use and development opportunities associated with providing goods and services;

(2) Obtaining the public's views about possible decisions;

(3) Implementing the planning coordination activities within the Forest Service and with local, State and other Federal agencies;

(4) Developing a broad range of alternatives which identify the benefits and costs of land and resource management according to the planning process described in this subpart.

(5) Developing the land and resource management plan and associated environmental impact statement required pursuant to the planning process;

(6) Presenting to the responsible line officer an integrated perspective on land and resource management planning; and

(7) Establishing the standards and requirements by which planning and management activities will be monitored and evaluated.

(b) In appointing team members, the responsible line officer shall determine and consider the qualifications of each team member on the basis of the complexity of the issues and concerns to be addressed through the plan. The team shall collectively represent diverse specialized areas of professional and technical knowledge applicable to the planning area, and the team members shall have recognized relevant expertise and experience in professional, investigative, scientific, or other responsible work in specialty areas which they collectively represent. The team may consist of whatever combination of Forest Service staff and other Federal government personnel is necessary to achieve an interdisciplinary approach. The team is encouraged to consult other persons when required specialized knowledge does not exist within the team itself. In

addition to technical knowledge in one or more resource specialties, members should possess other attributes which enhance the interdisciplinary process. As a minimum, these attributes should include—

(1) An ability to solve complex problems;

(2) Skills in communication and group interaction;

(3) Basic understanding of land and natural resource planning concepts, processes, and analysis techniques; and

(4) The ability to conceptualize planning problems and feasible solutions.

§ 219.6 Public participation.

(a) Because the land and resource management planning process determines how the lands of the National Forest System are to be managed, the public is encouraged to participate throughout the planning process. The intent of public participation is to—

(1) Broaden the information base upon which land and resource management planning decisions are made;

(2) Ensure that the Forest Service understands the needs, concerns, and values of the public;

(3) Inform the public of Forest Service land and resource planning activities; and

(4) Provide the public with an understanding of Forest Service programs and proposed actions.

(b) Provide participation in the preparation of environmental impact statements for planning begins with the publication of a notice of intent in the **Federal Register.** Public involvement in the preparation of draft and final environmental impact statements shall conform to the requirements of the National Environmental Policy Act and associated implementing regulations and Forest Service Manual and Handbook guidance (hereafter, "NEPA procedures"). Public comments shall be analyzed according to NEPA procedures.

(c) Public participation activities, as deemed appropriate by the responsible line officer, shall be used early and often throughout the development of plans. Formal public participation activities will begin with a notice to the news media and other sources which includes, as appropriate, the following information:

(1) A description of the proposed planning action;

(2) A description and map of the geographic area affected;

(3) The issues expected to be discussed;

(4) The kind, extent, and method(s) of public participation to be used;

(5) The times, dates, and locations scheduled or anticipated, for public meetings;

(6) The name, title, address, and telephone number of the Forest Service official who may be contacted for further information; and

(7) The location and availability of documents relevant to planning process.

(d) Public participation activities should be appropriate to the area and people involved. Means of notification should be appropriate to the level of planning. Public participation activities may include, but are not limited to, requests for written comments, meetings, conferences, seminars, workshops, tours, and similar events designed to foster public review and comment. The Forest Service shall state the objectives of each participation activity to assure that the public understands what type of information is needed and how this information relates to the planning process.

(e) Public comments shall be considered individually and by type of group and organization to determine common areas of concern and geographic distribution. The result of this analysis should be evaluated to determine the variety and intensity of viewpoints about ongoing and proposed planning and management standards and guidelines.

(f) All scheduled public participation activities shall be documented by a summary of the principal issues discussed, comments made, and a register of participants.

(g) At least 30 days' public notice shall be given for public participation activities associated with the development of regional guides and forest plans. Any notice requesting written comments on regional planning shall allow at least 60 calendar days for response. A similar request on forest planning shall allow at least 30 calendar days for response. Draft regional guides and forest plans and environmental impact statements shall be available for public comment for a least 3 months. See also §§ 219.8(c) and 219.10(b).

(h) The responsible line officer shall attend, or provide for adequate representation at, public participation activities.

(i) Copies of approved guides and plans shall be available for public review as follows:

(1) The RPA Assessment and the RPA Program shall be available at national headquarters, The Northeastern Area State and Private Forestry Office, and all Regional offices, Research Stations, Forest Supervisors' offices, and District Rangers' offices;

(2) The regional guides shall be available at national headquarters, the issuing regional office and regional offices of contiguous regions, each Forest Supervisor's office of forests within and contiguous to the issuing region, and each District Ranger's office in the region;

(3) The forest plan shall be available at the regional office for the forest, the Forest Supervisor's office, Forest Supervisors' offices contiguous to the forest, District Rangers' offices within the forest, and at least one additional location, to be determined by the Forest Supervisor, which shall offer convenient access to the public.

These documents may be made available at other locations convenient to the public.

(j) Documents considered in the development of plans shall be available at the office where the plans were developed.

(k) Forest planning activities should be coordinated to the extent practicable with owners of lands that are intermingled with, or dependent for access upon, National Forest System lands. The results of this coordination shall be included in the environmental impact statement for the plan as part of the review required in § 219.7(c). The responsible line officer may individually notify these owners of forest planning activities where it is determined that notice provided for the general public is not likely to reach the affected landowners.

(l) Fees for reproducing requested documents shall be charged according to the Secretary of Agriculture's Fee Schedule (7 CFR Part 1, Subpart A, Appendix A).

§ 219.7 Coordination with other public planning efforts.

(a) The responsible line officer shall coordinate regional and forest planning with the equivalent and related planning efforts of other Federal agencies, State and local governments, and Indian tribes.

(b) The responsible line officer shall give notice of the preparation of a land and resource management plan, along with a general schedule of anticipated planning actions, to the State Clearinghouse for circulation among State agencies as specified in OMB Circular A–95. The same notice shall be mailed to all Tribal or Alaska Native leaders whose tribal lands or treaty rights are expected to be impacted and to the heads of units of government for the counties involved. These notices

shall be issued simultaneously with the publication of the notice of intent to prepare an environmental impact statement required by NEPA procedures (40 CFR 1501.7).

(c) The responsible line officer shall review the planning and land use policies of other Federal agencies, State and local governments, and Indian tribes. The results of this review shall be displayed in the environmental impact statement for the plan (40 CFR 1502.16(c), 1506.2). The review shall include—

(1) Consideration of the objectives of other Federal, State and local governments, and Indians tribes, as expressed in their plans and policies;

(2) An assessment of the interrelated impacts of these plans and policies;

(3) A determination of how each Forest Service plan should deal with the impacts identified; and,

(4) Where conflicts with Forest Service planning are identified, consideration of alternatives for their resolution.

(d) In developing land and resource management plans, the responsible line officer shall meet with the designated State official (or designee) and representatives of other Federal agencies, local governments, and Indian tribal governments at the beginning of the planning process to develop procedures for coordination. As a minimum, such conferences shall also be held after public issues and management concerns have been identified and prior to recommending the preferred alternative. Such conferences may be held in conjunction with other public participation activities, if the opportunity for government officials to participate in the planning process is not thereby reduced.

(e) In developing the forest plan, the responsible line officer shall seek input from other Federal, State and local governments, and universities to help resolve management concerns in the planning process and to identify areas where additional research is needed. This input should be included in the discussion of the research needs of the designated forest planning area.

(f) A program of monitoring and evaluation shall be conducted that includes consideration of the effects of National Forest management on land, resources, and communities adjacent to or near the National Forest being planned and the effects upon National Forest management of activities on nearby lands managed by other Federal or other government agencies or under the jurisdiction of local governments.

§ 219.8 Regional planning procedure.

(a) *Regional guide.* A regional guide shall be developed for each administratively designated Forest Service region. Regional guides shall reflect general coordination of National Forest System, State and Private Forestry, and Research programs. Regional guides shall provide standards and guidelines for addressing major issues and management concerns which need to be considered at the regional level to facilitate forest planning. Public participation and coordination, the current RPA Program and Assessment, and the existing forest and resource plans shall be used as sources of information in meeting this requirement. Data and information requirements established nationally will be followed in structuring and maintaining required data.

(b) *Responsibilities.*—(1) *Chief, Forest Service.* The Chief shall establish agency-wide policy for regional planning and approve all regional guides.

(2) *Regional Forester.* The Regional Forester has overall responsibility for preparing and implementing the regional guide and for preparing the environmental impact statement for proposed standards and guidelines in the regional guide. The Regional Forester appoints and supervises the interdisciplinary team.

(3) *Interdisciplinary Team.* The team, under the direction of the Regional Forester, implements the public participation and coordination activities required by § 219.6 and § 219.7. The team shall continue to function even though membership may change and shall monitor and evaluate planning results and recommend amendments. The team shall develop a regional guide in compliance with NEPA procedures.

(c) *Public review.* A draft and final environmental impact statement shall be prepared for the proposed standards and guidelines in the regional guide according to NEPA procedures. To the extent feasible, a single process shall be used to meet planning and NEPA requirements. The draft statement shall identify a preferred alternative. Beginning on the date of publication of the notice of availability of the draft environmental impact statement in the **Federal Register**, the statement and the proposed guide shall be available for public comment for at least 3 months at convenient locations in the vicinity of the lands covered by the guide. During this period, and in accordance with the provisions in § 219.6, the Regional Forester or his designee shall publicize and hold public participation activities as deemed necessary for adequate public input.

(d) *Guide approval.* The Chief shall review the proposed guide and the final environmental impact statement and either approve or disapprove the guide.

(1) *Approval.* The Chief shall prepare a concise public record of decision which documents approval and accompanies the regional guide and the final environmental impact statement. The record or decision shall be prepared according to NEPA procedures (40 CFR 1505.2). The approved regional guide shall not become effective until at least 30 days after publication of the notice of availability of the final environmental impact statement in the **Federal Register.**

(2) *Disapproval.* The Chief shall return the regional guide and final environmental impact statement to the Regional Forester with a written statement of the reasons for disapproval. The Chief may also specify a course of action to be undertaken by the Regional Forester in order to remedy deficiencies, errors, or omissions in the regional guide or environmental impact statement.

(e) *Public appeal of approval decisions.* The provisions of 36 CFR 211, Subpart B apply to any administrative appeal of the Chief's decision to approve a regional guide. Decisions to disapprove a guide and other decisions made during the regional planning process prior to issuance of a record of decision approving the guide are not subject to administrative appeal.

(f) *Amendment.* The Regional Forester may amend the regional guide. The Regional Forester shall determine whether the proposed amendment would result in a significant change in the guide. If the change resulting from the proposed amendment is determined to be significant, the Regional Forester shall follow the same procedure for amendment as that required for development and approval of a regional guide. If the change resulting from the amendment is determined not to be significant for the purposes of the planning process, the Regional Forester may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures.

(g) *Planning records.* The Regional Forester shall develop and maintain planning records that document decisions and activities that result from the process of developing a regional guide and the accomplishment of legal and administrative planning requirements. These records include at least the draft environmental impact statement, final environmental impact statement, regional guide, record of

decision, a work plan to guide and manage planning, the procedures used in completing each action, and the results of these actions.

§ 219.9 Regional guide content.

(a) The regional guide shall contain—

(1) A summary of the analysis of the regional management situation, including a brief description of the existing management situation and the major issues and management concerns which need to be addressed at the regional level to facilitate forest planning;

(2) A description of management direction including programs, goals, and objectives;

(3) A display of tentative resource objectives for each forest planning area from the current RPA Program;

(4) New or significantly changed regional management standards and guidelines necessary to address major regional issues and management concerns identified in paragraph (a)(1) of this section;

(5) Specific standards and guidelines for the following—

(i) Prescribing appropriate harvest cutting methods to be used within the region according to geographic areas, forest types, or other suitable classifications;

(ii) Establishing the maximum size, dispersal, and size variation of tree openings created by even-aged management, and the state of vegetation that will be reached before a cut-over area is no longer considered an opening, using factors enumerated in § 219.27(d);

(iii) Defining the management intensities and utilization standards to be used in determining harvest levels for the region;

(iv) Designating transportation corridors and associated direction for forest planning, such as management requirements for corridors, transmission lines, pipelines, and water canals. (The designation of corridors is not to preclude the granting of separate rights-of-way over, upon, under, or through the Federal lands where the authorized line officer determines that confinement to a corridor is not appropriate.) (43 U.S.C. 1763, 36 CFR 251.56); and

(v) Identifying in forest plans significant current and potential air pollution emissions from management activities and from other sources in and around the forest planning area and identifying measures needed to coordinate air quality control with appropriate air quality regulation agencies.

(6) A description of the monitoring and evaluation necessary to determine and report achievements and effects of the guide.

(7) A description of measures to achieve coordination of National Forest System, State and Private Forestry, and Research programs.

(b) Existing regional standards and guidelines that are part of the Forest Service directives system, and that are not altered or superseded in the course of complying with § 219.9(a)(4), shall remain in effect.

§ 219.10 Forest planning—general procedure.

(a) *Responsibilities.*—(1) *Regional Forester.* The Regional Forester shall establish regional policy for forest planning and approve all forest plans in the region.

(2) *Forest Supervisor.* The Forest Supervisor has overall responsibility for the preparation and implementation of the forest plan and preparation of the environmental impact statement for the forest plan. The Forest Supervisor appoints and supervises the interdisciplinary team.

(3) *Interdisciplinary team.* The team, under the direction of the Forest Supervisor, implements the public participation and coordination activities required by § 219.6 and § 219.7. The team shall continue to function even though membership may change and shall monitor and evaluate planning results and recommend revisions and amendments. The interdisciplinary team shall develop a forest plan and environmental impact statement using the process established in § 219.12 and paragraph (b) below.

(b) *Public review of plan and environmental impact statement.* A draft and final environmental impact statement shall be prepared for the proposed plan according to NEPA procedures. The draft environmental impact statement shall identify a preferred alternative. To comply with 16 U.S.C. 1604(d), the draft environmental impact statement and proposed plan shall be available for public comment for at least 3 months, at convenient locations in the vicinity of the lands covered by the plan, beginning on the date of the publication of the notice of availability in the **Federal Register.** During this period, and in accordance with the provisions in § 219.6, the Forest Supervisor shall publicize and hold public participation activities as deemed necessary to obtain adequate public input.

(c) *Plan approval.* The Regional Forester shall review the proposed plan and the final environmental impact statement and either approve or disapprove the plan.

(1) *Approval.* The Regional Forester shall prepare a concise public record of decision which documents approval and accompanies the plan and final environmental impact statement. The record of decision shall be prepared according to NEPA procedures (40 CFR 1505.2). The approved plan shall not become effective until at least 30 days after publication of the notice of availability of the final environmental impact statement in the **Federal Register**, to comply with 16 U.S.C. 1604(d) and 1604(j).

(2) *Disapproval.* The Regional Forester shall return the plan and final environmental impact statement to the Forest Supervisor with a written statement of the reasons for disapproval. The Regional Forester may also specify a course of action to be undertaken by the Forest Supervisor in order to remedy deficiencies, errors, or omissions in the plan or environmental impact statement.

(d) *Public appeal of approval decision.* The provisions of 36 CFR Part 211, Subpart B apply to any administrative appeal of the Regional Forester's decision to approve a forest plan. Decisions to disapprove a plan and other decisions made during the forest planning process prior to the issuance of a record of decision approving the plan are not subject to administrative appeal.

(e) *Plan implementation.* As soon as practicable after approval of the plan, the Forest Supervisor shall ensure that, subject to valid existing rights, all outstanding and future permits, contracts, cooperative agreements, and other instruments for occupancy and use of affected lands are consistant with the plan. Subsequent administrative activities affecting such lands, including budget proposals, shall be based on the plan. The Forest Supervisor may change proposed implementation schedules to reflect differences between proposed annual budgets and appropriated funds. Such scheduled changes shall be considered an amendment to the forest plan, but shall not be considered a significant amendment, or require the preparation of an environmental impact statement, unless the changes significantly alter the long-term relationship between levels of multiple-use goods and services projected under planned budget proposals as compared to those projected under actual appropriations.

(f) *Amendment.* The Forest Supervisor may amend the forest plan. Based on an analysis of the objectives, guidelines, and other contents of the forest plan, the Forest Supervisor shall determine whether a proposed amendment would

result in a significant change in the plan. If the change resulting from the proposed amendment is determined to be significant, the Forest Supervisor shall follow the same procedure as that required for development and approval of a forest plan. If the change resulting from the amendment is determined not to be significant for the purposes of the planning process, the Forest Supervisor may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures.

(g) *Revision.* A forest plan shall ordinarily be revised on a 10-year cycle or at least every 15 years. It also may be revised whenever the Forest Supervisor determines that conditions or demands in the area covered by the plan have changed significantly or when changes in RPA policies, goals, or objectives would have a significant effect on forest level programs. In the monitoring and evaluation process, the interdisciplinary team may recommend a revision of the forest plan at any time. Revisions are not effective until considered and approved in accordance with the requirements for the development and approval of a forest plan. The Forest Supervisor shall review the conditions on the land covered by the plan at least every 5 years to determine whether conditions or demands of the public have change significantly.

(h) *Planning records.* The Forest Supervisor and interdisciplinary team shall develop and maintain planning records that document the decisions and activities that result from the process of developing a forest plan. Records that support analytical conclusions made and alternatives considered by the team and approved by the Forest Supervisor throughout the planning process shall be maintained. Such supporting records provide the basis for the development of the forest plan and associated documents required by NEPA procedures.

§ 219.11 Forest plan content.

The forest plan shall contain the following:

(a) A brief summary of the analysis of the management situation, including demand and supply conditions for resource commodities and services, production potentials, and use and development opportunities;

(b) Forest multiple-use goals and objectives that include a description of the desired future condition of the forest or grassland and an identification of the quantities of goods and services that are expected to be produced or provided during the RPA planning periods;

(c) Multiple-use prescriptions and associated standards and guidelines for each management area including proposed and probable management practices such as the planned timber sale program; and

(d) Monitoring and evaluation requirements that will provide a basis for a periodic determination and evaluation of the effects of management practices.

§ 219.12 Forest planning—process.

(a) *General requirements.* The preparation, revision, or significant amendment of a forest plan shall comply with the requirements established in this section. The planning process includes at least those actions set forth in paragraphs (b) through (k) of the section. Some actions may occur simultaneously, and it may be necessary to repeat an action as additional information becomes available. The environmental impact statement for each forest plan shall be prepared according to NEPA procedures. To the extent feasible, a single process shall be used to meet planning and NEPA requirements.

(b) *Identification of purpose and need.* The interdisciplinary team shall identify and evaluate public issues, management concerns, and resource use and development opportunities, including those identified throughout the planning process during public participation activities and coordination with other Federal agencies, State and local governments, and Indian tribes. The Forest Supervisor shall determine the major public issues, management concerns, and resource use and development opportunities to be addressed in the planning process.

(c) *Planning criteria.* Criteria shall be prepared to guide the planning process. Criteria apply to collection and use of inventory data and information, analysis of the management situation, and the design, formulation, and evaluation of alternatives. Criteria designed to achieve the objective of maximizing net public benefits shall be included. Specific criteria may be derived from—

(1) Laws, Executive Orders, regulations, and agency policy as set forth in the Forest Service Manual;

(2) Goals and objectives in the RPA Program and regional guides;

(3) Recommendations and assumptions developed from public issues, management concerns, and resource use and development opportunities;

(4) The plans and programs of other Federal agencies, State and local governments, and Indian tribes;

(5) Ecological, technical, and economic factors; and

(6) The resource integration and management requirements in §§ 219.13 through 219.27.

(d) *Inventory data and information collection.* Each Forest Supervisor shall obtain and keep current inventory data appropriate for planning and managing the resources under his or her administrative jurisdiction. The Supervisor will assure that the interdisciplinary team has access to the best available data. This may require that special inventories or studies be prepared. The interdisciplinary team shall collect, assemble, and use data, maps, graphic material, and explanatory aids, of a kind, character, and quality, and to the detail appropriate for the management decisions to be made. Data and information needs may vary as planning problems develop from identification of public issues, management concerns, and resource use and development opportunities. Data shall be stored for ready retrieval and comparison and periodically shall be evaluated for accuracy and effectiveness. The interdisciplinary team will use common data definitions and standards established by the Chief of the Forest Service to assure uniformity of information between all planning levels. As information is recorded, it shall be applied in any subsequent planning process. Information developed according to common data definitions and standards shall be used in the preparation of the 1990, and subsequent RPA Assessments and RPA Programs.

(e) *Analysis of the management situation.* The analysis of the management situation is a determination of the ability of the planning area covered by the forest plan to supply goods and services in response to society's demands. The primary purpose of this analysis is to provide a basis for formulating a broad range of reasonable alternatives. The analysis may examine the capability of the unit to supply outputs both with and without legal and other requirements. As a minimum, the analysis of the management situation shall include the following:

(1) Benchmark analyses to define the range within which alternatives can be constructed. Budgets shall not be a constraint. The following benchmark analyses shall be consistent with the minimum applicable management requirements of § 219.27 and shall define at least—

(i) The minimum level of management which would be needed to maintain and protect the unit as part of the National Forest System together with associated costs and benefits;

(ii) The maximum physical and biological production potentials of significant individual goods and services together with associated costs and benefits;

(iii) Monetary benchmarks which estimate the maximum present net value of those resources having an established market value or an assigned value;

(A) For forest planning areas with major resource outputs that have an established market price, monetary benchmarks shall include an estimate of the mix of resource uses, combined with a schedule of outputs and costs, which will maximize the present net value of those major outputs that have an established market price;

(B) For all forest planning areas, monetary benchmarks shall include an estimate of the mix of resource uses, combined with a schedule of outputs and costs, which will maximize the present net value of those major outputs that have an established market price or are assigned a monetary value;

(C) For forest planning areas with a significant timber resource, estimates for paragraphs (e)(1)(iii) (A) and (B) of this section shall be developed both with and without meeting the requirements for compliance with a base sale schedule of timber harvest, as described in § 219.16(a)(1), and with and without scheduling the harvest of even-aged stands generally at or beyond culmination of mean annual increment of growth, as described in § 219.16(a)(2)(iii).

(D) Estimates for paragraphs (e)(1)(iii) (A) and (B) of this section shall be developed both with and without other constraints when needed to address major public issues, management concerns, or resource opportunities identified during the planning process.

(2) The current level of goods and services provided by the unit and the most likely amount of goods and services expected to be provided in the future if current management direction continues; this will be the same analysis as that required by § 219.12(f)(5).

(3) Projections of demand using best available techniques, with both price and nonprice information. To the extent practical, demand will be assessed as price-quantity relationships.

(4) A determination of the potential to resolve public issues and management concerns.

(5) Based on consideration of data and findings developed in paragraphs (e)(1)–(4), a determination of the need to establish or change management direction.

(f) *Formulation of alternatives.* The interdisciplinary team shall formulate a broad range of reasonable alternatives according to NEPA procedures. The primary goal in formulating alternatives, besides complying with NEPA procedures, is to provide an adequate basis for identifying the alternative that comes nearest to maximizing net public benefits, consistent with the resource integration and management requirements of §§ 219.13 through 219.27.

(1) Alternatives shall be distributed between the minimum resource potential and the maximum resource potential to reflect to the extent practicable the full range of major commodity and environmental resource uses and values that could be produced from the forest. Alternatives shall reflect a range of resource outputs and expenditure levels.

(2) Alternatives shall be formulated to facilitate analysis of opportunity costs and of resource use and environmental trade-offs among alternatives and between benchmarks and alternatives.

(3) Alternatives shall be formulated to facilitate evaluation of the effects on present net value, benefits, and costs of achieving various outputs and values that are not assigned monetary values, but that are provided at specified levels.

(4) Alternatives shall provide different ways to address and respond to the major public issues, management concerns, and resource opportunities identified during the planning process.

(5) Reasonable alternatives which may require a change in existing law or policy to implement shall be formulated if necessary to address a major public issue, management concern, or resource opportunity identified during the planning process (40 CFR 1501.7, 1502.14(c)).

(6) At least one alternative shall be developed which responds to and incorporates the RPA Program tentative resource objectives for each forest displayed in the regional guide.

(7) At least one alternative shall reflect the current level of goods and services provided by the unit and the most likely amount of goods and services expected to be provided in the future if current management direction continues. Pursuant to NEPA procedures, this alternative shall be deemed the "no action" alternative.

(8) Each alternative shall represent to the extent practicable the most cost efficient combination of management prescriptions examined that can meet the objectives established in the alternative.

(9) Each alternative shall state at least—

(i) The condition and uses that will result from long-term application of the alternative;

(ii) The goods and services to be produced, the timing and flow of these resource outputs together with associated costs and benefits;

(iii) Resource management standards and guidelines; and

(iv) The purposes of the management direction proposed.

(g) *Estimated effects of alternatives.* The physical, biological, economic, and social effects of implementing each alternative considered in detail shall be estimated and compared according to NEPA procedures. These effects include those described in NEPA procedures (40 CFR 1502.14 and 1502.16) and at least the following:

(1) The expected outputs for the planning periods, including appropriate marketable goods and services, as well as nonmarket items, such as recreation and wilderness use, wildlife and fish, protection and enhancement of soil, water, and air, and preservation of aesthetic and cultural resource values;

(2) The relationship of expected outputs to the RPA Program tentative resource objectives for the forest displayed in the current regional guide;

(3) Direct and indirect benefits and costs, analyzed in sufficient detail to estimate—

(i) the expected real-dollar costs (discounted when appropriate), including investment, administrative, and operating costs of the agency and all other public and private costs required to manage the forest up to the point where the outputs are valued and the environmental consequences are realized;

(ii) the expected real-dollar value (discounted when appropriate) of all outputs attributable to each alternative to the extent that monetary values can be assigned to nonmarket goods and services, using quantitative and qualitative criteria when monetary values may not reasonably be assigned;

(iii) the economic effects of alternatives, including impacts on present net value, total receipts to the Federal Government, direct benefits to users that are not measured in receipts to the Federal Government, receipt shares to State and local governments, income, and employment in affected areas; and

(iv) the monetary opportunity costs (changes in present net value) associated with those management standards and resource outputs in each alternative that were not assigned monetary values but were provided at specified levels, compared with the maximum present net value benchmarks developed in § 219.12(e)(1)(iii).

(4) The significant resource tradeoffs and opportunity costs associated with achieving alternative resource objectives.

(h) *Evaluation of alternatives:* Using planning criteria, the interdisciplinary team shall evaluate the significant physical, biological, economic, and social effects of each management alternative that is considered in detail. The evaluation shall include a comparative analysis of the aggregate effects of the management alternatives and shall compare present net value, social and economic impacts, outputs of goods and services, and overall protection and enhancement of environmental resources.

(i) *Preferred alternative recommendation.* The Forest Supervisor shall review the interdisciplinary team's evaluation and shall recommend to the Regional Forester a preferred alternative to be identified in the draft environmental impact statement and displayed as the proposed plan.

(j) *Plan approval.* The Regional Forester shall review the proposed plan and final environmental impact statement and either approve or disapprove the plan in accordance with § 219.10(c). The record of decision for approval of a plan shall include, in addition to the requirements of NEPA procedures (40 CFR 1505.2), a summarized comparison of the selected alternative with:

(1) Any other alternative considered which is environmentally preferable to the selected alternative; and

(2) Any other alternative considered which comes nearer to maximizing present net value.

(k) *Monitoring and evaluation.* At intervals established in the plan, implementation shall be evaluated on a sample basis to determine how well objectives have been met and how closely management standards and guidelines have been applied. Based upon this evaluation, the interdisciplinary team shall recommend to the Forest Supervisor such changes in management direction, revisions, or amendments to the forest plan as are deemed necessary. Monitoring requirements identified in the forest plan shall provide for—

(1) A quantitative estimate of performance comparing outputs and services with those projected by the forest plan;

(2) Documentation of the measured prescriptions and effects, including significant changes in productivity of the land; and

(3) Documentation of costs associated with carrying out the planned management prescriptions as compared with costs estimated in the forest plan.

(4) A description of the following monitoring activities:

(i) The actions, effects, or resources to be measured, and the frequency of measurements;

(ii) Expected precision and reliability of the monitoring process; and

(iii) The time when evaluation will be reported.

(5) A determination of compliance with the following standards:

(i) Lands are adequately restocked as specified in the forest plan;

(ii) Lands identified as not suited for timber production are examined at least every 10 years to determine if they have become suited; and that, if determined suited, such lands are returned to timber production;

(iii) Maximum size limits for harvest areas are evaluated to determine whether such size limits should be continued; and

(iv) Destructive insects and disease organisms do not increase to potentially damaging levels following management activities.

§ 219.13 Forest planning—resource integration requirements.

The minimum requirements for integrating individual forest resource planning into the forest plan are established in §§ 219.14 through 219.26 of this subpart. For the purposes of meeting the requirements of § 219.12(c), additional planning criteria may be found in the guidelines for managing specific resources set forth in the Forest Service Manual and Handbooks.

§ 219.14 Timber resource land suitability.

During the forest planning process, lands which are not suited for timber production shall be identified in accordance with the criteria in paragraphs (a) through (d) of this section.

(a) During the analysis of the management situation, data on all National Forest System lands within the planning area shall be reviewed, and those lands within any one of the categories described in paragraphs (a)(1) through (4) of this section shall be identified as not suited for timber production—

(1) The land is not forest land as defined in § 219.3.

(2) Technology is not available to ensure timber production from the land without irreversible resource damage to soils productivity, or watershed conditions.

(3) There is not reasonable assurance that such lands can be adequately restocked as provided in § 219.27(c)(3).

(4) The land has been withdrawn from timber production by an Act of Congress, the Secretary of Agriculture or the Chief of the Forest Service.

(b) Forest lands other than those that have been identified as not suited for timber production in paragraph (a) of this section shall be further reviewed and assessed prior to formulation of alternatives to determine the costs and benefits for a range of management intensities for timber production. For the purpose of analysis, the planning area shall be stratified into categories of land with similar management costs and returns. The stratification should consider appropriate factors that influence the costs and returns such as physical and biological conditions of the site and transportation requirements. This analysis shall identify the management intensity for timber production for each category of land which results in the largest excess of discounted benefits less discounted costs and shall compare the direct costs of growing and harvesting trees, including capital expenditures required for timber production, to the anticipated receipts to the government, in accordance with § 219.12 and paragraphs(b)(1) through (b)(3) of this section.

(1) Direct benefits are expressed as expected gross receipts to the government. Such receipts shall be based upon expected stumpage prices and payments-in-kind from timber harvest considering future supply and demand situation for timber and upon timber production goals of the regional guide.

(2) Direct costs include the anticipated investments, maintenance, operating, management, and planning costs attributable to timber production activities, including mitigation measures necessitated by the impacts of timber production.

(3) In addition to long-term yield, the financial analysis must consider costs and returns of managing the existing timber inventory.

(c) During formulation and evaluation of each alternative as required in § 219.12 (f) and (g), combinations of resource management prescriptions shall be defined to meet management objectives for the various multiple uses including outdoor recreation, timber, watershed, range, wildlife and fish, and wilderness. The formulation and evaluation of each alternative shall consider the costs and benefits of alternative management intensities for timber production as identified pursuant to paragraph (b) of this section in accordance with § 219.12(f). Lands shall

be tentatively identified as not appropriate for timber production to meet objectives of the alternative being considered if—

(1) Based upon a consideration of multiple-use objectives for the alternative, the land is proposed for resource uses that preclude timber production, such as wilderness;

(2) Other management objectives for the alternative limit timber production activities to the point where management requirements set forth in § 219.27 cannot be met; or

(3) The lands are not cost-efficient, over the planning horizon, in meeting forest objectives, which include timber production.

(d) Lands identified as not suited for timber production in paragraph (a) of this section and lands tentatively identified as not appropriate for timber production in paragraph (c) of this section shall be designated as not suited for timber production in the preferred alternative. Designation in the plan of lands not suited for timber production shall be reviewed at least every 10 years. Such lands may be reviewed and redesignated as suited for timber production due to changed conditions at any time, according to the criteria in paragraphs (a) and (c) of this section, and according to the procedures for amendment or revision of the forest plan in §§219.10 (f) and (g).

§ 219.15 Vegetation management practices.

When vegetation is altered by management, the methods, timing, and intensity of the practices determine the level of benefits that can be obtained from the affected resources. The vegetation management practices chosen for each vegetation type and circumstance shall be defined in the forest plan with applicable standards and guidelines and the reasons for the choices. Where more than one vegetation management practice will be used in a vegetation type, the conditions under which each will be used shall be based upon thorough reviews of technical and scientific literature and practical experience, with appropriate evaluation of this knowledge for relevance to the specific vegetation and site conditions. On National Forest System land, the vegetation management practice chosen shall comply with the management requirements in § 219.27(b).

§ 219.16 Timber resource sale schedule.

In a forest plan, the selected forest management alternative includes a sale schedule which provides the allowable sale quantity. The sale schedule of each alternative, including those which depart from base sale schedules, shall be formulated in compliance with § 219.12(f) and paragraphs (a) and (b) of this section.

(a) Alternatives shall be formulated that include determinations of the quantity of the timber that may be sold during each decade. These quantity determinations shall be based on the principle of sustained yield and shall meet the management requirements in § 219.27. For each alternative, the determination shall include a calculation of the long-term sustained-yield capacity and the base sale schedule and, when appropriate, a calculation of timber sale alternatives that may depart from the base sale schedule as provided in paragraphs (a)(1) through (a)(3) of this section.

(1) For the base sale schedules, the planned sale for any future decade shall be equal to, or greater than, the planned sale for the preceding decade, provided that the planned sale is not greater than the long-term sustained-yield capacity consistent with the management objectives of the alternative.

(2) The determinations of the appropriate long-term sustained-yield capacities, base sale schedules, and departure alternatives to the base sale schedules shall be made on the basis of the guidelines which follow:

(i) For the long-term sustained-yield capacities and the base sale schedules, assume intensities of management and degree of timber utilization consistent with the goals, assumptions, and requirements contained in, or used in, the preparation of the current RPA Program and regional guide. For the base sale schedule, the management and utilization assumptions shall reflect the projected changes in practices for the four decades contained in, or used in, the preparation of the current RPA Program and regional guide. Beyond the fourth decade, the assumptions shall reflect those projected for the fourth decade of the current RPA Program, unless there is a basis for a different assumption;

(ii) For alternatives with sale schedules which depart from the corresponding base sale schedule, assume an appropriate management intensity;

(iii) In accordance with the established standards, assure that all even-aged stands scheduled to be harvested during the planning period will generally have reached the culmination of mean annual increment of growth. Mean annual increment shall be based on expected growth, according to management intensities and utilization standards assumed in paragraphs (a)(2) (i) and (ii) of this section and on forest type and site quality. Mean annual increment shall be expressed in cubic measure. Alternatives which incorporate exceptions to these standards shall be evaluated if it is reasonable to expect that overall multiple use objectives would be better attained. Alternatives which incorporate exceptions to these standards are permitted for the use of sound silvicultural practices, such as thinning or other stand improvement measures; for salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack; for cutting for experimental and research purposes; or for removing particular species of trees, after consideration has been given to the multiple uses of the area being planned and after completion of the public participation process applicable to the preparation of a forest plan; and

(iv) Each sale schedule shall provide for a forest structure that will enable perpetual timber harvest which meets the principle of sustained-yield and multiple-use objectives of the alternative.

(3) Alternatives with sale schedules which depart from the principles of paragraph (1) above and which will lead to better attaining the overall objectives of multiple-use management shall be evaluated when any of the following conditions are indicated:

(i) None of the other alternatives considered provides a sale schedule that achieves the assigned goals of the RPA Program as provided in § 219.4(b);

(ii) High mortality losses from any cause can be significantly reduced or prevented or forest age-class distribution can be improved, thereby facilitating future sustained-yield management; or

(iii) Implementation of the corresponding base sale schedule would cause a substantial adverse impact upon a community in the economic area in which the forest is located.

(iv) It is reasonable to expect that overall multiple-use objectives would otherwise be better attained.

(b) The sale schedule of the management alternative selected in accordance with § 219.12 provides the allowable sale quantity for the first plan period.

§ 219.17 Wilderness designation.

(a) Lands revised for wilderness designation under the review and evaluation of roadless areas conducted by the Secretary of Agriculture, but not

designated as wilderness or not designated for further planning, and lands whose designation as primitive areas has been terminated shall be managed for uses other than wilderness in accordance with this subpart. No such area shall be considered for designation as wilderness until a revision of the forest plan under § 219.10(g).

(b) When revising the forest plan, roadless areas of public lands within and adjacent to the forest shall be evaluated and considered for recommendation as potential wilderness areas, as provided in paragraphs (b)(1) and (b)(2) of this section.

(1) During analysis of the management situation, the following areas shall be designated for evaluation:

(i) All previously inventoried wilderness resources not yet designated, if they are currently essentially roadless;

(ii) Areas contiguous to existing wilderness, primitive areas, or administratively proposed wildernesses, regardless of which agency has jurisdiction for the wilderness or proposed wilderness;

(iii) Areas that are contiguous to roadless and undeveloped areas in other Federal ownership that have identified wilderness potential; and

(iv) Areas designated by Congress for wilderness study, administrative proposals pending before Congress, and other legislative proposals pending which have been endorsed by the President.

(2) Each area designated for evaluation under paragraph (b)(1) of this section shall be evaluated with public participation. The evaluation criteria shall include as a minimum—

(i) The values of the area as wilderness;

(ii) The values foregone and effects on management of adjacent lands as a consequence of wilderness designation;

(iii) Feasibility of management as wilderness, in respect to size, nonconforming use, land ownership patterns, and existing contractual agreements or statutory rights;

(iv) Proximity to other designated wilderness and relative contribution to the National Wilderness Preservation System; and

(v) The anticipated long-term changes in plant and animal species diversity, including the diversity of natural plant and animal communities of the forest planning area and the effects of such changes on the values for which wilderness areas were created.

§ 219.18 Wilderness management.

Forest planning shall provide direction for the management of designated wilderness and primitive areas in accordance with the provisions of 36 CFR Part 293. In particular, plans shall—

(a) Provide for limiting and distributing visitor use of specific areas in accord with periodic estimates of the maximum levels of use that allow natural processes to operate freely and that do not impair the values for which wilderness areas were created; and

(b) Evaluate the extent to which wildfire, insect, and disease control measures may be desirable for protection of either the wilderness or adjacent areas and provide for such measures when appropriate.

§ 219.19 Fish and wildlife resource.

Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area.

(a) Each alternative shall establish objectives for the maintenance and improvement of habitat for management indicator species selected under paragraph (g)(1) of this section, to the degree consistent with overall multiple use objectives of the alternative. To meet this goal, management planning for the fish and wildlife resource shall meet the requirements set forth in paragraphs (a)(1) through (a)(7) of this section.

(1) In order to estimate the effects of each alternative on fish and wildlife populations, certain vertebrate and/or invertebrate species present in the area shall be identified and selected as management indicator species and the reasons for their selection will be stated. These species shall be selected because their population changes are believed to indicate the effects of management activities. In the selection of management indicator species, the following categories shall be represented where appropriate: Endangered and threatened plant and animal species identified on State and Federal lists for the planning area; species with special habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished, or trapped; non-game species of special interest; and additional plant or animal species selected because their population changes are believed to indicate the effects of management activities on other species of selected major biological communities or on water quality. On the basis of available scientific information, the interdisciplinary team shall estimate the effects of changes in vegetation type, timber age classes, community composition, rotation age, and year-long suitability of habitat related to mobility of management indicator species. Where appropriate, measures to mitigate adverse effects shall be prescribed.

(2) Planning alternatives shall be stated and evaluated in terms of both amount and quality of habitat and of animal population trends of the management indicator species.

(3) Biologists from State fish and wildlife agencies and other Federal agencies shall be consulted in order to coordinate planning for fish and wildlife, including opportunities for the reintroduction of extirpated species.

(4) Access and dispersal problems of hunting, fishing, and other visitor uses shall be considered.

(5) The effects of pest and fire management on fish and wildlife populations shall be considered.

(6) Population trends of the management indicator species will be monitored and relationships to habitat changes determined. This monitoring will be done in cooperation with State fish and wildlife agencies, to the extent practicable.

(7) Habitat determined to be critical for threatened and endangered species shall be identified, and measures shall be prescribed to prevent the destruction or adverse modification of such habitat. Objectives shall be determined for threatened and endangered species that shall provide for, where possible, their removal from listing as threatened and endangered species through appropriate conservation measures, including the designation of special areas to meet the protection and management needs of such species.

§ 219.20 Grazing resource.

In forest planning, the suitability and potential capability of National Forest System lands for producing forage for grazing animals and for providing habitat for management indicator species shall be determined as provided in paragraphs (a) and (b) of this section. Lands so identified shall be managed in accordance with direction established in forest plans.

(a) Lands suitable for grazing and browsing shall be identified and their

condition and trend shall be determined. The present and potential supply of forage for livestock, wild and free-roaming horses and burros, and the capability of these lands to produce suitable food and cover for selected wildlife species shall be estimated. The use of forage by grazing and browsing animals will be estimated. Lands in less than satisfactory condition shall be identified and appropriate action planned for their restoration.

(b) Alternative range management prescriptions shall consider grazing systems and the facilities necessary to implement them; land treatment and vegetation manipulation practices; and evaluation of pest problems; possible conflict or beneficial interactions among livestock, wild free-roaming horses and burros and wild animal populations, and methods of regulating these; direction for rehabilitation of ranges in unsatisfactory condition; and comparative cost efficiency of the prescriptions.

§ 219.21 Recreation resource.

To the degree consistent with needs and demands for all major resources, a broad spectrum of forest and rangeland related outdoor recreation opportunities shall be provided for in each alternative. Planning activities to achieve this shall be in accordance with national and regional direction and procedural requirements of paragraphs (a) through (g) of this section.

(a) Forest planning shall identify—

(1) The physical and biological characteristics that make land suitable for recreation opportunities;

(2) The recreational preferences of user groups and the settings needed to provide quality recreation opportunities; and

(3) Recreation opportunities on the National Forest System lands.

(b) The supply of developed recreational facilities in the area of National Forest influence shall be appraised for adequacy to meet present and future demands.

(c) Planning altenatives shall include consideration of establishment of physical facilities, regulation of use, and recreation opportunities responsive to current and anticipated user demands.

(d) In formulation and analysis of alternatives as specified in § 219.12 (f) and (g), interactions among recreation opportunities and other multiple uses shall be examined, This examination shall consider the impacts of the proposed recreation activities on other uses and values and the impacts of other uses and activities associated with them on recreation opportunities, activities, and quality of experience.

(e) Formulation and evaluation of alternatives under paragraphs (c) and (d) of this section shall be coordinated to the extent feasible with present and proposed recreation activities of local and State land use or outdoor recreation plans, particularly the State Comprehensive Outdoor Recreation Plan, and recreation opportunities already present and available on other public and private lands, with the aim of reducing duplication in meeting recreation demands.

(f) The visual resource shall be inventoried and evaluated as an integrated part of evaluating alternatives in the forest panning process, addressing both the landscape's visual attractiveness and the public's visual expectation. Management prescriptions for definitive land areas of the forest shall include visual quality objectives.

(g) Off-road vehicle use shall be planned and implemented to protect land and other resources, promote public safety, and minimize comflicts with other uses of the National Forest System lands. Forest planning shall evaluate the potential effects of vehicle use off roads and, on the basis of the requirements of 36 CFR Part 295 of this chapter, classify areas and trails of National Forest System lands as to whether or not off-road vehicle use may be permitted.

§ 219.22 Mineral resource.

Mineral exploration and development in the planning area shall be considered in the management of renewable resources. The following shall be recognized to the extent practicable in forest planning:

(a) Active mines within the area of land covered by the forest plan;

(b) Outstanding or reserved mineral rights;

(c) The probable occurrence of various minerals, including locatable, leasable, and common variety;

(d) The potential for future mineral development and potential need for withdrawal of areas from development;

(e) Access requirements for mineral exploration and development; and

(f) The probable effect of renewable resource prescriptions and management direction on mineral resources and activities, including exploration and development.

§ 219.23 Water and soil resource.

Forest planning shall provide for—

(a) General estimates of current water uses, both consumptive and non-consumptive, including instream flow requirements within the area of land covered by the forest plan;

(b) Identification of significant existing impoundments, transmission facilities, wells, and other man-made developments on the area of land covered by the forest plan;

(c) Estimation of the probable occurrence of various levels of water volumes, including extreme events which would have a major impact on the planning area;

(d) Compliance with requirements of the Clean Water Act, the Safe Drinking Water Act, and all substantive and procedural requirements of Federal, State, and local governmental bodies with respect to the provision of public water systems and the disposal of waste water;

(e) Evaluation of existing or potential watershed conditions that will influence soil productivity, water yield, water pollution, or hazardous events; and

(f) Adoption of measures, as directed in applicable Executive orders, to minimize risk of flood loss, to restore and preserve floodplain values, and to protect wetlands.

§ 219.24 Cultural and historic resources.

Forest planning shall provide for the identification, protection, interpretation, and management of significant cultural resources on National Forest System lands. Planning of the resource shall be governed by the requirements of Federal laws pertaining to historic preservation, and guided by paragraphs (a)(1) through (a)(3) of this section.

(a) Forest planning shall—

(1) Provide an overview of known data relevant to history, ethnography, and prehistory of the area under consideration, including known cultural resource sites;

(2) Identify areas requiring more intensive inventory;

(3) Provide for evaluation and identification of appropriate sites for the National Register of Historic Places;

(4) Provide for establishing measures for the protection of significant cultural resources from vandalism and other human depredation, and natural destruction;

(5) Identify the need for maintenance of historic sites on, or eligible for inclusion in, the National Register of Historic Places; and

(6) Identify opportunities for interpretation of cultural resources for the education and enjoyment of the American public.

(b) In the formulation and analysis of alternatives, interactions among cultural resources and other multiple uses shall be examined. This examination shall consider impacts of the management of cultural resources on other uses and

activities and impacts of other uses and activities on cultural resource management.

(c) Formulation and evaluation of alternatives shall be coordinated to the extent feasible with the State cultural resource plan and planning activities of the State Historic Preservation Office and State Archaeologist and with other State and Federal agencies.

§ 219.25 Research natural areas.

Forest planning shall provide for the establishment of Research Natural Areas (RNA's). Planning shall make provision for the identification of examples of important forest, shrubland, grassland, alpine, aquatic, and geologic types that have special or unique characteristics of scientific interest and importance and that are needed to complete the national network of RNA's. Biotic, aquatic, and geologic types needed for the network shall be identified using a list provided by the Chief of the Forest Service. Authority to establish RNA's is delegated to the Chief at 7 CFR 2.60(a) and 36 CFR 251.23. Recommendations for establishment of areas shall be made to the Chief through the planning process.

§ 219.26 Diversity.

Forest planning shall provide for diversity of plant and animal communities and tree species consistent with the overall multiple-use objectives of the planning area. Such diversity shall be considered throughout the planning process. Inventories shall include quantitative data making possible the evaluation of diversity in terms of its prior and present condition. For each planning alternative, the interdisciplinary team shall consider how diversity will be affected by various mixes of resource outputs and uses, including proposed management practices. (Refer to § 219.27(g).)

§ 219.27 Management requirements.

The minimum specific management requirements to be met in accomplishing goals and objectives for the National Forest System are set forth in this section. These requirements guide the development, analysis, approval, implementation, monitoring and evaluation of forest plans.

(a) *Resource protection.* All management prescriptions shall—

(1) Conserve soil and water resources and not allow significant or permanent impairment of the productivity of the land;

(2) Consistent with the relative resource values involved, minimize serious or long-lasting hazards from flood, wind, wildfire, erosion, or other natural physical forces unless these are specifically excepted, as in wilderness;

(3) Consistent with the relative resource values involved, prevent or reduce serious, long lasting hazards and damage from pest organisms, utilizing principles of integrated pest management. Under this approach all aspects of a pest-host system should be weighed to determine situation-specific prescriptions which may utilize a combination of techniques including, as appropriate, natural controls, harvesting, use of resistant species, maintenance of diversity, removal of damaged trees, and judicious use of pesticides. The basic principle in the choice of strategy is that, in the long term, it be ecologically acceptable and compatible with the forest ecosystem and the multiple use objectives of the plan;

(4) Protect streams, streambanks, shorelines, lakes, wetlands, and other bodies of water as provided under paragraphs (d) and (e) of this section;

(5) Provide for and maintain diversity of plant and animal communities to meet overall multiple-use objectives, as provided in paragraph (g) of this section;

(6) Provide for adequate fish and wildlife habitat to maintain viable populations of existing native vertebrate species and provide that habitat for species chosen under § 219.19 is maintained and improved to the degree consistent with multiple-use objectives established in the plan;

(7) Be assessed prior to project implementation for potential physical, biological, aesthetic, cultural, engineering, and economic impacts and for consistency with multiple uses planned for the general area;

(8) Include measures for preventing the destruction or adverse modification of critical habitat for threatened and endangered species;

(9) Provide that existing significant transportation and utility corridors and other significant right-of-ways that are capable and likely to be needed to accommodate the facility or use from an additional compatible right-of-way be designated as a right-of-way corridor. Subsequent right-of-way grants will, to the extent practicable, and as determined by the responsible line officer, use designated corridors;

(10) Ensure that any roads constructed through contracts, permits, or leases are designed according to standards appropriate to the planned uses, considering safety, cost of transportation, and effects upon lands and resources;

(11) Provide that all roads are planned and designed to re-establish vegetative cover on the disturbed area within a reasonable period of time, not to exceed 10 years after the termination of a contract, lease or permit, unless the road is determined necessary as a permanent addition to the National Forest Transportation System; and

(12) Be consistent with maintaining air quality at a level that is adequate for the protection and use of National Forest System resources and that meets or exceeds applicable Federal, State and/or local standards or regulations.

(b) *Vegetative manipulation.* Management prescriptions that involve vegetative manipulation of tree cover for any purpose shall—

(1) Be best suited to the multiple-use goals established for the area with potential environmental, biological, cultural resource, aesthetic, engineering, and economic impacts, as stated in the regional guides and forest plans, being considered in this determination;

(2) Assure that lands can be adequately restocked as provided in paragraph (c)(3) of this section, except where pernament openings are created for wildlife habitat improvement, vistas, recreation uses and similar practices;

(3) Not be chosen primarily because they will give the greatest dollar return or the greatest output of timber, although these factors shall be considered;

(4) Be chosen after considering potential effects on residual trees and adjacent stands;

(5) Avoid permanent impairment of site productivity and ensure conservation of soil and water resources;

(6) Provide the desired effects on water quantity and quality, wildlife and fish habitat, regeneration of desired tree species, forage production, recreation uses, aesthetic values, and other resource yields; and

(7) Be practical in terms of transportation and harvesting requirements, and total costs of preparation, logging, and administration.

(c) *Silvicultural practices.* The following management requirements apply to timber harvest and cultural treatments:

(1) No timber harvesting shall occur on lands classified as not suited for timber production pursuant to § 219.14 except for salvage sales, sales necessary to protect other multiple-use values or activities that meet other objectives on such lands if the forest plan establishes that such actions are appropriate. These lands shall continue to be treated for reforestation purposes if necessary to achieve the multiple-use objectives of the plan.

(2) The selected sale schedule provides the allowable sale quantity for the first planning period. Within the planning period, the volume of timber to be sold in any one year may exceed the average annual allowable sale quantity so long as the total amount sold for the planning period does not exceed the allowable sale quantity. Nothing in this paragraph prohibits salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger of insect or disease attack and where such harvests are consistent with silvicultural and environmental standards. Such timber may either substitute for timber that would otherwise be sold under the plan or, if not feasible, be sold over and above the planned volume.

(3) When trees are cut to achieve timber production objectives, the cuttings shall be made in such a way as to assure that the technology and knowledge exists to adequately restock the lands within 5 years after final harvest. Research and experience shall be the basis for determining whether the harvest and regeneration practices planned can be expected to result in adequate restocking. Adequate restocking means that the cut area will contain the minimum number, size, distribution, and species composition of regeneration as specified in regional silvicultural guides for each forest type. Five years after final harvest means 5 years after clearcutting, 5 years after final overstory removal in shelterwood cutting, 5 years after the seed tree removal cut in seed tree cutting, or 5 years after selection cutting.

(4) Cultural treatments such as thinning, weeding, and other partial cutting may be included in the forest plan where they are intended to increase the rate of growth of remaining trees, favor commercially valuable tree species, favor species or age classes which are most valuable for wildlife, or achieve other multiple-use objectives.

(5) Harvest levels based on intensified management practices shall be decreased no later than the end of each planning period if such practices cannot be completed substantially as planned.

(6) Timber harvest cuts designed to regenerate an even-aged stand of timber shall be carried out in a manner consistent with the protection of soil, watershed, fish and wildlife, recreation, and aesthetic resources, and the regeneration of the timber resource.

(7) Timber harvest and other silvicultural treatments shall be used to prevent potentially damaging population increases of forest pest organisms. Silvicultural treatments shall not be applied where such treatments would make stands susceptible to pest-caused damage levels inconsistent with management objectives.

(d) *Even-aged management.* When openings are created in the forest by the application of even-aged silviculture, the following management requirements apply:

(1) Openings shall be located to achieve the desired combination of multiple-use objectives. The blocks or strips cut shall be shaped and blended with the natural terrain, to the extent practicable, to achieve aesthetic, wildlife habitat, or other objectives established in the plan. Regional guides shall provide guidance on dispersion of openings in relation to topography, climate, geography, local land use patterns, forest types or other factors. As a minimum, openings in forest stands are no longer considered openings once a new forest is established. Forest plans may set forth variations to this minimum based on site-specific requirements for achieving multiple-use objectives. Regional guides shall provide guidance for determining variations to this minimum in the forest plan, based on requirements for watershed, wildlife habitat, scenery or other resource protection needs, or other factors.

(2) Individual cut blocks, patches, or strips shall conform to the maximum size limits for areas to be cut in one harvest operation established by the regional guide according to geographic areas and forest types. This limit may be less than, but will not exceed, 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types except as provided in paragraphs (d)(2) (i) through (iii) of this section:

(i) Cut openings larger than those specified may be permitted where larger units will produce a more desirable combination of net public benefits. Such exceptions shall be provided for in regional guides. The following factors shall be considered in evaluating harvest cuts of various sizes and shapes to determine size limits by geographic areas and forest types: Topography; relationship of units to other natural or artificial openings and proximity of units; coordination and consistency with adjacent forests and regions; effect on water quality and quantity; visual absorption capability; effect on wildlife and fish habitat; regeneration requirements for desirable tree species based upon the latest research findings; transportation and harvesting system requirements; environmental and forest pest hazards to regeneration, residual trees, and surrounding stands; and the relative total costs of preparation and administration, transportation requirements, harvesting, site preparation, planting, stocking control, and future stand tending of harvest cuts of various sizes and shapes. Specification for exceptions shall include the particular conditions under which the larger size is permitted and shall set a new maximum size permitted under those conditions.

(ii) Size limits exceeding those established in paragraphs (d)(2) and (d)(2)(i) of this section are permitted on an individual timber sale basis after 60 days' public notice and review by the Regional Forester.

(iii) The established limit shall not apply to the size of areas harvested as a result of natural catastrophic condition such as fire, insect and disease attack, or windstorm.

(e) *Riparian areas.* Special attention shall be given to land and vegetation for approximately 100 feet from the edges of all perennial streams, lakes, and other bodies of water. This area shall correspond to at least the recognizable area dominated by the riparian vegetation. No management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or deposits of sediment shall be permitted within these areas which seriously and adversely affect water conditions or fish habitat. Topography, vegetation type, soil, climatic conditions, management objectives, and other factors shall be considered in determining what mangement practices may be performed within these areas or the constraints to be placed upon their performance.

(f) *Soil and water.* Conservation of soil and water resources involves the analysis, protection, enhancement, treatment, and evaluation of soil and water resources and their responses under management and shall be guided by instructions in official technical handbooks. These handbooks must show specific ways to avoid or mitigate damage, and maintain or enhance productivity on specific sites. These handbooks may be regional in scope or, where feasible, specific to physiographic or climatic provinces.

(g) *Diversity.* Management prescriptions, where appropriate and to the extent practicable, shall preserve and enhance the diversity of plant and animal communities, including endemic and desirable naturalized plant and

animal species, so that it is at least as great as that which would be expected in a natural forest and the diversity of tree species similar to that existing in the planning area. Reductions in diversity of plant and animal communities and tree species from that which would be expected in a natural forest, or from that similar to the existing diversity in the planning area, may be prescribed only where needed to meet overall multiple-use objectives. Planned type conversion shall be justified by an analysis showing biological, economic, social, and environmental design consequences, and the relation of such conversions to the process of natural change.

§ 219.28 Research.

(a) Research needs for management of the National Forest System shall be identified during planning and periodically reviewed during evaluation of implemented plans. Particular attention should be given to research needs identified during the monitoring and evaluation described in § 219.12(k). These identified needs shall be included in formulating overall research programs and plans which involve private as well as public forest and rangelands.

(b) Research needed to support or improve management of the National Forest System shall be established and budgeted at the research station and national levels. Priorities for this portion of the Forest Service Research Program shall be based upon the information gathered at all planning levels of the National Forest System.

(c) An annual report shall be prepared at the national level with assistance from Regions and Stations which shall include, but not be limited to, a description of the status of major research programs which address National Forest System needs for Research, significant findings, and how this information is to be or has recently been applied.

§ 219.29 Transition period.

(a) Until a forest planning area of the National Forest System is managed under a forest plan developed pursuant to this subpart and approved by the Regional Forester, the land may continue to be managed under existing land use and resource plans. As soon as practicable, existing plans shall be amended or revised to incorporate standards and guidelines in this subpart. Pending approval of a forest plan, existing plans may be amended or revised to include management requirements not inconsistent with the provisions of the RPA and these regulations.

(b) Requirements of amendments to this subpart shall be incorporated in forest plans and regional guides through the ongoing planning process. Planning process steps already completed need not be repeated.

(1) If, prior to the effective date of an amendment to this subpart, a forest plan either has been approved in final form or released in draft form for public review, the plan need not be modified to incorporate requirements of such amendment, until the next scheduled revision of the forest plan;

(2) If, prior to the effective date of an amendment to this subpart, a regional guide either has been approved in final form or released in draft form for public review, the guide need not be modified to incorporate the requirements of such amendment, until a significant amendment to the guide is made for reasons other than incorporating requirements of amendments to this subpart.

(c) A forest plan may become effective prior to the development and approval of its related regional guide, provided that the forest plan is reviewed upon regional guide approval, and if necessary, amended to comply with regional management direction. If such an amendment is significant, it shall be accomplished pursuant to the requirements for the development of a forest plan as set forth in this subpart.

(d) As a result of the eruption of Mount St. Helens, a land management plan for the Mount St. Helens area shall be prepared substantially in accordance with the following procedures:

(1) Notwithstanding any other provisions in this subpart, the area included in the Mount St. Helens land management plan will not be subject to planning activities for the first generation Gifford Pinchot National Forest Plan unless the Regional Forester for the Pacific Northwest Region determines that additional planning activities are desirable.

(2) Lands which were inventoried as roadless and designated for nonwilderness uses in the Roadless Area Review and Evaluation (RARE II) shall be managed for uses other than wilderness. Except for a small part of the Mount Margaret roadless area (B 6071), the Mount St. Helens land management plan shall not consider wilderness designation for these lands.

(3) Lands which were inventoried as roadless and designated as further planning in the Roadless Area Review and Evaluation (RARE II) shall be evaluated in the Mount St. Helens land management plan and shall be managed in accordance with that plan.

Dated: September 27, 1982.

Douglas W. MacCleery,

Deputy Assistant Secretary For Natural Resources and Environment.

[FR Doc. 82-26998 Filed 9-29-82; 8:45 am]

BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Permissible Interest Rates on Guaranteed Mobile Home Loans, and Home and Condominium Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rates on guaranteed mobile home unit loans, lot loans, and combination mobile home unit and lot loans. In addition, the maximum interest rate applicable to home and condominium loans is also decreased. These decreases in interest rates are possible because of recent improvements in the availability of funds in various credit markets. The decrease in the interest rates will allow eligible veterans to obtain loans at a lower monthly cost.

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by section 1819(f), title 38, United States Code, to establish maximum interest rates for mobile home loans guaranteed by the VA as he finds the mobile home loan capital markets demand. Recent market indicators—including the prime rate, the general decrease in interest rates charged on conventional mobile home loans, and the decrease of other short-term and long-term interest rates—have shown that the mobile home capital markets have improved. It is now possible to decrease the interest rates on mobile home unit loans, lot loans, and combination mobile home unit and lot loans while still assuring an adequate supply of funds from lenders and investors to make these types of VA loans.

The Administrator is also required by section 1803(c), title 38, United States Code, to establish maximum interest rates for home and condominium loans. Market indicators similarly favor a

reduction in the maximum interest rate for this type of loan. The lower interest rate should assist more veterans in the purchase of homes and condominiums because of the decrease in the monthly loan payments for principal and interest.

The Administrator's statutory authority to establish interest rates has been delegated by 38 CFR 2.6(b)(3) to the Chief Benefits Director, Deputy Chief Benefits Director, or person authorized to act for them.

Regulatory Flexibility Act/Executive Order 12291

For the reasons discussed in the May 7, 1981 **Federal Register** (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they are not "major rules" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the VA maximum interest rates for VA guaranteed, insured or direct loans would deny veterans the benefit of lower interest rates pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program numbers 64.113, 64.114, and 64.119)

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1), 1811(d)(1) and 1819 (f) and (g) of title 38, United States Code and delegated to the undersigned by 38 CFR 2.6(b)(3). The regulations are clearly within that statutory authority and are consistent with Congressional intent.

These decreases are accomplished by amending §§ 36.4212a (1), (2), and (3), and 36.4311(a), and 36.4503(a), title 38, Code of Federal Regulations.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Mobile homes, Veterans.

Approved: September 23, 1982.

By direction of the Administrator.

John W. Hagan, Jr.,

Deputy Chief Benefits Director.

PART 36—LOAN GUARANTY

The Veterans Administration is amending 38 CFR Part 36 as follows:

1. In § 36.4212, paragraph (a) is revised as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed or insured pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to the respective effective date: (38 U.S.C. 1819(f))

(1) Effective September 24, 1982, 15½ percent simple interest per annum for a loan which finances the purchase of a mobile home unit only.

(2) Effective September 24, 1982, 15 percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) Effective September 24, 1982, 15 percent simple interest per annum for a loan which will finance the simultaneous acquisition of a mobile home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the mobile home.

* * * * *

2. In § 36.4311, paragraph (a) is revised as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 13½ per centum per annum, effective September 24, 1982, the interest rate on any home or condominium loan guaranteed or insured wholly or in part on or after such date may not exceed 13½ per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

3. In § 36.4503, paragraph (a) is revised as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 13½ percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements or repairs shall bear interest at the rate of 14½ percent per annum. (38 U.S.C. 1811(d) (1) and (2)(A))

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[FR Doc. 82-26984 Filed 9-29-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2212-1]

Guam and Hawaii State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice announces EPA's approval, under Section 110 of the Clean Air Act, of a variance granted by the State of Hawaii regarding opacity requirements. In addition, this notice incorporates into the Guam State Implementation Plan (SIP) minor changes to the effective date of certain regulations.

EFFECTIVE DATE: November 29, 1982.

ADDRESSES: Copies of these revisions are available for public inspection during normal business hours at the EPA Region 9 Office and the following locations:

State of Hawaii, Department of Health, P.O. Box 3378, Honolulu, HI 96801

Guam Environmental Protection Agency, P.O. Box 2999, Agana, Guam 96910
Public Information Reference Unit, Room 2404, EPA Library (PM–213), 401 M Street, SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT:
Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Telephone: (45) 974–7641

SUPPLEMENTARY INFORMATION: On April 6, 1982, the Governor of Hawaii submitted, as an SIP revision, a variance from Hawaii Public Health Regulations Chapter 43, Air Pollution Control. Specifically, the variance issued by the Hawaii Department of Health (HDOH) approves a request by the McBryde Sugar Company for exemption of its processing mill at Eleele, Kauai, Hawaii from the 40% opacity requirement of Section 8(a)(1) of Chapter 43. The variance covers the period of installation, testing and modification of a wet scrubber, and expires on May 31, 1983. The variance allows up to 60% opacity from existing boilers. EPA has evaluated the HDOH's SIP revision and has determined that the variance will not endanger public health as the net emissions impact is negligible. EPA therefore, approves the HDOH's opacity variance as part of the Hawaii SIP.

On January 6, 1982, the Guam Environmental Protection Agency submitted as a SIP revision amendments to Chapter 18 of its Standards and Regulations. Chapter 18, *Appeals Procedures, Circumvention, Severability, and Effective Date,* was renumbered and is now Chapter 17. In addition, the effective dates of certain regulations were extended to December 1981. These revisions are approved in today's notice.

It is the purpose of this notice to approve all the rule revisions listed above and to incorporate them into the Guam and Hawaii SIPs. EPA's approval of the above revisions to the Guam and Hawaii SIPs is being done without prior proposal because the revisions are not controversial. The public should be advised that this approval action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709). The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 29, 1982. This action may not be challenged later in proceedings to enforce its requirements.

Note.—Incorporation by reference of the State Implementation plans for Guam and Hawaii was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental Relations.

(Secs. 110 and 310(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a))

Dated: September 21, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subparts M and AAA of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations are amended as follows:

Subpart M—Hawaii

1. Section 52.620 is amended by adding paragraph (c)(14) as follows:

§ 52.620 Identification of plan.

* * * * *

(c) * * *

(14) A variance of the Hawaii Public Health Regulations, Chapter 43, Section 8(b)(1) submitted on April 6, 1982, by the Governor.

* * * * *

Subpart AAA—Guam

2. Section 52.2670 is amended by adding paragraph (c)(4) as follows:

§ 52.2670 Identification of plan.

* * * * *

(c) * * *

(4) Amendments to the Guam Air Pollution Control Standards and Regulations submitted on January 6, 1982 by the Governor's designee.

(i) Chapter 17—Appeals Procedures, Circumvention, Severability, and Effective Date.

* * * * *

[FR Doc. 82–26960 Filed 9–29–82; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 52

[A-5-FRL-2217-8]

Approval and Promulgation of Implementation Plans; Illinois; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This notice corrects a citation appearing in the final rulemaking approving the satisfaction of approval conditions for the Illinois Particulate and Ozone Control Strategies. This final rulemaking was published in the June 21, 1982 **Federal Register** (47 FR 26619).

FOR FURTHER INFORMATION CONTACT:
Randolph O. Cano, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6035.

SUPPLEMENTARY INFORMATION: On page 26620 of the June 21, 1982 **Federal Register** in the second column in the codification under the heading: Subpart O Illinois the paragraphs cited for addition into § 52.720(c) were incorrectly numbered.

In particular it was published in the codification that: "Section 52.720(c) is amended by adding paragraphs (33) and (34) to read as follows:." The correct numbers of the paragraphs to be added are (39) and (40) and these additions to § 52.720(c) should read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(39) On October 1, 1981, the State submitted a report in satisfaction of the Total Suspended Particulate Control Strategy approval condition in which the State agreed to conduct an analysis of the potential air quality impact from storage piles with uncontrolled emissions of less than 50 tons per year, to submit the results of any analysis to EPA, to submit any necessary regulations to the Illinois Pollution Control Board, and promulgate and submit any necessary regulations to EPA. This report concluded that no further regulations were needed.

(40) EPA Study Volatile Organic Compound Emissions from Solvent Cleaning Operations in the State of

Illinois (EPA 905/4–80–008) was prepared to satisfy the Ozone Control Strategy approval condition in which the State agreed to conduct a study to demonstrate that the three pound per hour, 15 pound per day exemption for solvent metal cleaners contained in Rule 205(k) represents RACT, to submit the results of the study to EPA, to submit the necessary regulations to the Illinois Pollution Control Board and promulgate and submit any necessary regulations to EPA. The State reviewed this report and in a February 11, 1981, letter to EPA noted their agreement with the findings of the report and indicated that because there was no need for further regulations, this condition is satisfied.

* * * * *

Dated: September 20, 1982.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 82–26979 Filed 9–29–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 60 and 61

[A–9–FRL 2217–2]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); States of Arizona, California, and Nevada and Territory of Guam

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) to various State and local air pollution control agencies in Region 9. This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of NSPS and NESHAPS categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift primary program responsibility for the affected NSPS and NESHAPS source categories from EPA to State and local governments.

DATES: The regulations are amended to reflect these delegations effective September 27, 1982.

The delegations are effective on the dates listed in the Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8236, FTS 454–8236.

SUPPLEMENTARY INFORMATION: The following state and local air pollution control agencies have requested authority for delegation or redelegation of certain NSPS and NESHAPS source categories. Delegation or redelegations of authority were granted to the following agencies and are effective as listed below:

Bay Area Air Quality Management District

Effective Date: July 19, 1982.

New Delegation

NESHAPS	40 CFR part 61 subpart
Vinyl Chloride	F.

Redelegation

NESHAPS	40 CFR part 61 subpart
Beryllium	C.
Beryllium Rocket Motor Firing	D.

Del Norte County Air Pollution Control District (APCD)

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Glass Manufacturing Plants	CC.
Stationary Gas Turbines	GG.
Automobile & Light-Duty Truck Surface Coating Operations.	MM.
Ammonium Sulfate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: West process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and steel Plants (Electric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Grain Elevators	DD.
Lime Manufacturing Plants	HH.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Fresno County APCD

Effective Date: June 21, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Kraft Pulp Mills	BB.
Grain Elevators	DD.
Lime Manufacturing plants	HH.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.
Vinyl Chloride	F.

Great Basin Unified APCD

Effective Date: August 16, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
Iron and Steel Plants (Electric Arc Furnaces)	AA.

Humboldt County APCD

Effective Date: September 6, 1982.

Redelegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Glass Manufacturing Plants	CC.
Stationary Gas Turbines	GG.
Automobile & Light-Duty Truck Surface Coating Operations.	MM.
Ammonium Sulfate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Prepartation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Grain Elevators	DD.
Lime Manufacturing Plants	HH.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Kern County APCD

Effective Date: July 19, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Electric Utility Steam Generators	Da.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Petroleum Storage Vessels	Ka.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Grangular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Glass Manufacturing Plants	CC.
Grain Eelvators	DD.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Automobile and Light-Duty Truck Surface Coating.	MM.
Ammonium Sulfate Manufacturing	PP.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Kings County APCD

Effective Date: August 16, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
Kraft Pulp Mills	BB.
Grain Elevators	DD.
Lime Manufacturing Plants	HH.

Lake County APCD

Effective Date: August 16, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X
Iron and Steel Plants (Electric Arc Furnaces)	AA.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.

Madera County APCD

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Alumium Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Elecric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Grain Elevators	DD.
Lime Manufacturing Plants	HH.

NESHAPS	40 CFR part 61 subpart
Vinyl Chloride	F.

Redelegation

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.

Mendocino County APCD

Effective Date: September 6, 1982.

Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Kraft Pulp Mills	BB.
Glass Manufacturing Plants	CC.
Grain Elevators	DD.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Automobile & Light-Duty Truck Surface Coating Operations.	MM.
Ammonium Sulphate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incenerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnances)	AA.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Northern Sonoma Country APCD

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Kraft Pulp Mills	BB.
Glass Manufacturing Plants	CC.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Automobile & Light-Duty Truck Surface Coating Operations.	MM.
Ammonium Sulfate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.
Vinyl Chloride	F.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass and Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.

Monterey Bay Unified APCD

Effective Date: June 21, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Asphalt Concrete Plants	I.
Storage Vessels for Petroleum Liquids	K.
Sewage Treatment Plants	O.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.

Sacramento County APCD

Effective Date: September 27, 1982.

New Delegation

NESHAPS	40 CFR part 61 subpart
Mercury	E.

San Bernardino County APCD

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass and Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Iron and Steel Plants (Electric Arc Furnaces)	AA.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

San Joaquin County APCD

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Glass Manufacturing Plants	CC.
Grain Elevators	DD.
Stationary Gas Turbines	GG.
Automobile and Light-Duty Truck Surface Coating Operations.	MM.
Ammonium Sulfate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 61 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass and Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Lime Manufacturing Plants	HH.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

San Luis Obispo APCD

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Fossil-Fuel Fired Steam Generators	D.
Electric Utility Steam Generators	Da.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	Ka.
Secondary Lead Smelters	L.
Secondary Brass and Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Glass Manufacturing Plants	CC.
Grain Elevators	DD.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Automobile and Light-Duty Truck Surface Coating Operations.	MM.
Ammonium Sulfate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Santa Barbara APCD

Effective Date: June 21, 1982.

New Delegation

NESHAPS	40 CFR part 61 subpart
Asbestos	B.

Shasta County APCD

Effective Date: August 16, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
Kraft Pulp Mills	BB.
Grain Elevators	DD.
Lime Manufacturing Plants	HH.

NESHAPS	40 CFR part 61 subpart
Vinyl Chloride	F.

Trinity County APCD

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Kraft Pulp Mills	BB.
Glass Manufacturing Plants	CC.
Grain Elevators	DD.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Automobile and Light-Duty Truck Surface Coating Operations.	MM.
Ammonium Sulfate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass and Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F

Tulare County APCD

Effective Date:

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Glass Manufacturing Plants	CC.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Lead-Acid Battery Manufacturing Plants	KK.
Automobile & Light-Duty Truck Surface Coating Operations.	MM.
Phosphate Rock Plants	NN.
Ammonium Sulfate	PP.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel plants (Electric Arc Furnances)	AA.
Kraft Pulp Mills	BB.
Grain Elevators	DD.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Territory of Guam

Effective Date: June 21, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Fossil-Fuel Fired Steam Generators	D.
Portland Cement Plants	F.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.

State of Nevada

Effective Date: July 19, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
Lead-Acid Battery Manufacturing Plants	KK.
Phosphate Rock Plants	NN.

Pursuant to NSPS and NESHAPS regulations, sources are required to submit all required reports to the state or local agency that has jurisdiction over the source, and to EPA.

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

(Secs. 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*))

List of Subjects

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: September 17, 1982.

Sonia F. Crow,

Regional Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Subparts A of Parts 60 and 61 of Chapter I, Title 40 of the Code of Federal Regulations are amended as follows:

Subpart A—General Provisions

1. Sections 60.4(b)(D) and 61.04(b)(D) are each amended by adding the address of the State of Arizona to read as follows:

§§ 60.4 Address and 61.04 Address.

* * * * *

(b) * * *

(D) Arizona: Arizona Department of Health Services, 1740 West Adams Street, Phoenix, Arizona 85007.

* * * * *

2. Sections 60.4(b)(F) and 61.04(b)(F) are each amended by revising the addresses of the following Air Pollution Control Districts to read as follows:

§§ 60.4 Address and 61.04 Address.

* * * * *

(b) * * *

(F) * * *

Fresno County Air Pollution Control District, 1221 Fulton Mall, Fresno, CA 93721.

Great Basin Unified Air Pollution Control District, 157 Short Street, Suite 6, Bishop, CA 93514.

Kern County Air Pollution Control District, 1601 H Street, Suite 250, Bakersfield, CA 93301.

Monterey Bay Unified Air Pollution Control, 1164 Monroe Street, Suite 10, Salinas, CA 93906.

Santa Barbara County Air Pollution Control District, 315 Camino del Rimedio, Santa Barbara, CA 93110.

* * * * *

3. Section 60.4(b) is amended by adding subparagraph (AAA) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(AAA) Territory of Guam: Guam Environmental Protection Agency, Post Office Box 2999, Agana, Guam 96910.

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[FR Doc. 82-26837 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-7-FRL-2209-7]

Designation of Areas for Air Quality; Planning Purposes; Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA today takes final action to redesignate the City of Dubuque, Iowa, from nonattainment to attainment with respect to the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2). A nonattainment designation means that air pollution levels are too high and an air pollution control plan must be developed. This redesignation means that air quality in Dubuque has improved so that further SO_2 control measures need not be required.

EFFECTIVE DATE: November 1, 1982.

ADDRESSES: Copies of the redesignation requests and supporting materials are available at the following addresses:

Environmental Protection Agency, Region VII, Air Programs Branch, 324 East 11th Street, Kansas City, Missouri 64106

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, at 816-374-3791.

SUPPLEMENTARY INFORMATION: On December 22, 1980, the Iowa Department of Environmental Quality (IDEQ) submitted a request to redesignate the attainment status of two areas in Iowa. The state had determined that Dubuque exceeded the NAAQS for carbon monoxide (CO) and should be redesignated from attainment to nonattainment for CO, that Dubuque no longer exceeded the NAAQS for SO_2 and should be redesignated from nonattainment to attainment for SO_2, and that particulate monitoring data in Keokuk no longer supported the secondary nonattainment designation and it should be changed to unclassifiable for total suspended particulate (TSP).

EPA proposed to approve these requests on April 3, 1981 (46 FR 20235), and received no public comments on the proposal. On October 5, 1981 (46 FR 48929), EPA redesignated Dubuque for CO and Keokuk for TSP but deferred action on Dubuque for SO_2.

EPA designation criteria require 24 months of valid SO_2 monitoring without a violation for an area to be designated as attainment for SO_2. The Dubuque area has not had a violation of the SO_2 standard for over 4 years but final action was deferred because of the air quality simulation modeling study the state then had underway. The purpose of the delay was to see if the results of the modeling study would indicate areas of violation at points other than monitoring sites.

The modeling study was intended as support for new statewide SO_2 limits. The state proposed to adopt new limits, based on the modeling, earlier this year but the rulemaking has been terminated without final action. Because a new rulemaking will require reproposal and new public hearings, it will be a substantial period of time before the new rules and modeling study are submitted. Therefore, EPA finds it is unreasonable to wait any longer for the modeling results and that further delay in redesignating Dubuque should not be allowed. When the modeling study is submitted, EPA will evaluate the results and determine if any new actions are appropriate.

In summary, air quality monitoring data shows that the sulfur dioxide standards have not been exceeded in Dubuque in more than 2 years, therefore the area meets the criteria to be reclassified from nonattainment to attainment. Therefore, the City of Dubuque is redesignated to attainment with respect to SO_2.

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 81

Air pollution control, National parks, and Wilderness areas.

(Secs. 107 and 301 of the Clean Air Act (42 U.S.C. 7407 and 7601))

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.316 [Amended]

In § 81.316, the table "Iowa-SO_2" is amended by removing the line beginning "Julien Township," by removing the line beginning "Remainder of Dubuque County," by revising "Remainder of State" to read "Entire State" and by removing the footnote.

[FR Doc. 82-26971 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

41 CFR Part 14H-1

Procurement Responsibility and Authority

July 30, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Revocation.

SUMMARY: Interior Procurement Regulation System § 14-1.404 and Interior Procurement Memorandum (IPM82-5) of January 29, 1982 were issued to implement the Contracting Officers' Warrant System for the selection, designation, and termination of designation of Contracting Officers. Therefore §§ 14H-1.451, 14H-1.451-2, and 14H-1.451-6 of Part 14H-1, Title 41 of the Code of Federal Regulations, are no longer necessary and are hereby revoked.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Peter A. Campanelli, Department of the Interior, Bureau of Indian Affairs, Washington, D.C 20245, telephone number (202) 343-5125.

SUPPLEMENTARY INFORMATION: This document is issued in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. The primary author of this document is Dr. Peter A. Campanelli, Department of the Interior, Bureau of Indian Affairs, Washington, D.C. 20245, telephone number (202) 343-5125.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under 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.

Lists of Subjects in 41 CFR Part 14H-1

Government procurements.

PART 14H-1—GENERAL

§§ 14H-1.451, 14H-1.451-2 and 14H-1.451-6 [Revoked and Reserved]

Under the authority of the Secretary of the Interior contained in 41 CFR 1-1.4, §§ 14H-1.451, 14H-1.451-2, and 14H-1.451-6 of Part 14H-1, Title 41 of the Code of Federal Regulations are hereby revoked and reserved.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-26950 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-02

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 2, 56, 59, 61, 62, and 65

Technical Corrections

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This document corrects errors in regulations of FEMA appearing in Title 44. This document corrects errors, changes addresses and makes technical corrections which have no substantive effect in the FEMA regulations.

DATE: Rule is effective September 30, 1982.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, 287-0377.

SUPPLEMENTARY INFORMATION: Accordingly, Chapter 1 of Title 44 is amended as follows:

PART 2—ORGANIZATION, FUNCTIONS AND DELEGATIONS OF AUTHORITY

1. Section 2.61(j) (1) and (2) and revised to read:

§ 2.61 Associate Director, State and Local Programs and Support (SLPS).

* * * * *

(j) * * *

(1) Authority under subsections 201 (a) and (b) of the Act except that the authority to delegate civil defense responsibilities to the departments and agencies is reserved;

(2) Those under subsections 201 (c) and (d);

* * * * *

PART 56—STANDARD REINSURANCE CONTRACT

§ 56.40 [Amended]

2. Section 56.40 is amended by removing "1725 I Street, NW" and "20472".

PART 59—GENERAL PROVISIONS

§ 59.1 [Amended]

3. Section 59.1, term "Agency" is amended by removing "1725 I Street, N.W., Washington, D.C. 20472".

PART 61—INSURANCE COVERAGE AND RATES

§ 61.12 [Amended]

4. Section 61.12(c) is amended by removing "1725 I Street, N.W." and "20472".

§ 61.15 [Amended]

5. Section 61.15 is amended by removing "1725 I Street, N.W." and "20472".

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

§ 62.22 [Amended]

6. Section 62.22(o) is amended by changing "42 U.S.C. 4053" to "42 U.S.C. 4072".

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

7. Section 65.5(b) is revised to read as follows:

§ 65.5 Requirement to submit new technical data.

* * * * *

(b) The technical and scientific information indicating changes in base flood elevations shall be submitted to Engineering Branch, Natural Hazards Division, Office of Natural and Technological Hazards, Federal Emergency Management Agency, Washington, D.C.

Dated: September 22, 1982.

George Jett,

General Counsel.

[FR Doc. 82-26997 Filed 9-29-82; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 16, 74, and 96

Block Grant Programs; Correction

AGENCY: Health and Human Services Department (HHS).

ACTION: Final rules, correction.

SUMMARY: On July 6, 1982 the Department published in the **Federal Register** final rules implementing the seven of the block grant programs established by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). 47 FR 29472. This document contains technical corrections that address inadvertent deletions and errors in wording, spelling and punctuation found in those rules.

DATE: The rules were effective July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Raymond, Director for Intergovernmental Policy, Office of Planning and Evaluation, Room 443–D, Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, (202) 245–7316.

SUPPLEMENTARY INFORMATION:

Accordingly, the Department of Health and Human Services is correcting FR Doc. 82–18247 appearing on pages 29472–29493 in the issue of July 6, 1982 as follows:

PART 96—BLOCK GRANTS

1. On page 29487, column 1, § 96.3, in line 6 "Pub. L. 96511" is corrected to read "Pub. L. 96–511".

2. On page 29487, column 2, § 96.11, in the last line "fund." is corrected to read "funds.".

3. On page 29487, column 3, § 96.14(a), the heading *"Obligations."* is corrected to read *"Obligation."*.

4. On page 29487, column 3, § 96.15, in line 9, "director" is corrected to read "Director".

5. On page 29488, column 3, § 96.43(b), in line 10, "(insert date 45 days after publication)" is corrected to read "August 20, 1982".

6. On page 29489, column 3, § 96.50(b), lines 11–13, "human Development Services. Complaints with respect to the low-income energy program" is corrected to read "Human Development Services. Complaints with respect to the low-income home energy assistance program".

7. On page 29490, column 1, § 96.50(b), in the last sentence "if" is corrected to read "it".

8. On page 29490, column 1, § 96.50(e), line 9, "stautory" is corrected to read "statutory".

9. On page 29491, column 3, § 96.71, lines 1–2, "Section 2005 (42 U.S.C. 1397d(a)(2) and (a)(5))(a)(2) and (a)(5)" is corrected to read "Section 2005(a)(2) and (a)(5) (42 U.S.C. 1397d(a)(2) and (a)(5))"; and on line 21 the semicolon is changed to a comma.

10. On page 29492, column 1, § 96.82, line 3, the comma is removed after the word "Act" and a comma is added after the parenthentical citation.

11. On page 29492, column 2, § 96.101, line 2, "the" is added after "of"; on line 17 "is due whether the center meets the requirements for receiving" is added after "response".

Dated: September 23, 1982.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 82–26966 Filed 9–29–82; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 174, 175, 177, 178 and 179

[Docket No. HM–56; Amdt. Nos. 107–10, 171–66, 172–74, 173–158, 174–41, 175–23, 177–55, 178–72, 179–31]

Hazardous Materials Regulations; Miscellaneous Amendments

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments to the Hazardous Materials Regulations is to change or delete certain incorrect references, to correct certain editorial errors, and to make minor regulatory changes which will not impose any restrictions on persons affected by these regulations.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas G. Allan, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–2075.

SUPPLEMENTARY INFORMATION: With consolidation of the Hazardous Materials Regulations (HMR) into Title 49 of the Code of Federal Regulations and subsequent amendments thereto, numerous discrepancies have surfaced in the printing of Title 49. These discrepancies include incorrect references, inadvertent omissions of phrases within sections, and punctuation errors. In addition, functional responsibilities relating to certain approvals have been transferred from the Materials Transportation Bureau's (MTB) Office of Operations and Enforcement (OOE) to its Office of Hazardous Materials Regulation (OHMR) and the affected sections are amended to note this. Finally, in response to inquiries which MTB has received concerning the clarity of particular requirements specified in the HMR, changes are made which should reduce uncertainties as to their meaning.

Since these amendments do not impose additional requirements, public notice has not been provided and these amendments are effective without delay. The MTB has determined that this rule, as promulgated, is not a "major rule" under the terms of Executive Order 12291 and DOT implementing procedures (44 FR 11034). A final regulatory evaluation and environmental assessment is not available in the Docket as these amendments are merely clerical in their effect. Based on limited information available concerning size and nature of entities likely to be affected by this amendment, I certify that this amendment will not, as promulgated, have a significant economic impact on a substantial number of small entities.

Docket HM–56 is closed upon issuance of this final rule.

The following is a brief summary on the changes in each Part:

Part 107

Changes reflect the proper title of the Associate Director for HMR in the following sections: § 107.119(b)(c), and (d), § 107.121.

In § 107.373, the word "employer" is changed to read "employee" to reflect the proper relationship to OHMR and OOE.

Part 171

In § 171.16, paragraph (b) is changed to specify the name of the new office to which written incident reports are to be addressed.

In §§ 171.19 and 171.20, corrections are made to reflect the correct title of the Associate Director for HMR.

Part 172

In § 172.101, the Hazardous Materials Table (HMT) is changed by adding and revising entries as follows:

"Allethrin" is amended by changing the identification number in column (3A) from NA2909 to NA2902.

"Barrel, empty", "Gas cylinder, empty," "Tank car, empty *(previously used for a hazardous material)*", "Tank car, empty *(previously used for a Poison A material)*", "Tank, portable empty" and "Tank truck, empty" are changed to appear in italics rather than Roman type.

"Electrolyte (acid) battery fluid" is amended by adding the letter "E" in column (1) and setting the reportable quantity value in italics.

"High explosive" is changed to reflect the correct packaging reference in column (5)(a).

"Hydrogen fluoride" is amended to indicate its proper identification number in column (3A) as UN 1052.

"Infectious substance, human, n.o.s.", inadvertently omitted in a recent republication of the HMT, is added to the table.

"Nitrogen peroxide, liquid" and "Nitrogen tetroxide, liquid" are amended to reflect their additional status as a hazardous substance, since these names are synonymous with "nitrogen dioxide, liquid."

"Phenylenediamine, meta or para, solid" is amended to reflect its correct spelling.

In § 172.200, paragraph (c) is removed since it no longer contains timely information.

In § 172.203, paragraphs (i)(2)(iii), (j)(1), and (k)(3)(iii) are removed since they no longer contain timely information.

In § 172.301, paragraph (c)(3) is removed since it no longer contains timely information.

In § 172.302, paragraph (c) is removed since it no longer contains timely information.

In § 172.336, paragraph (c)(8) is removed since it no longer contains timely information.

In § 172.407, paragraph (d)(5) is removed since it no longer contains timely information.

Part 173

In § 173.55, the antiquated term "dangerous articles" is changed to "hazardous materials."

In § 173.114a, paragraph (j) is removed since it no longer contains timely information.

In § 173.115, Note 1 following paragraph (a)(1)(ii) is removed since it no longer contains timely information.

The following sections are amended to remove the specific reference to intermodal portable tanks (IM–101 and IM–102) since their use is already authorized through other paragraphs in the same sections: § 173.125(a)(8), § 173.128(a)(5), § 173.129(a)(3), § 173.131(a)(3), § 173.132(a)(4), § 173.144(a)(4), § 173.147(a)(2).

In § 173.292, paragraph (a)(2) has the specific reference to MC 303, MC 304, MC 306, MC 307, MC 310, MC 311, and MC 312 tank motor vehicles removed since their use is already authorized through paragraph (a)(1).

In § 173.302, paragraph (c) is changed by having the formulas which appear in Note 1 and Note 2 rewritten to show their correct algebraic expression.

In § 173.331, paragraph (a)(1) is amended by correcting the quantity limit to read "5 cubic centimeters." It was incorrectly entered as 6 cubic centimeters when the HMR were consolidated in Docket No. HM–112 (41 FR 15972, April 15, 1976).

In § 173.334, paragraph (a)(1) has specification 4B240 added to the list of cylinders. It was inadvertently omitted when the HMR were consolidated in Docket No. HM–112 (41 FR 15972, April 15, 1976).

In § 173.353, paragraph (a)(3) is revised to include requirements for valve protection which were adopted under Docket HM–139C (45 FR 46419, July 10, 1980) but inadvertently omitted in a later revision of this paragraph under Docket HM–166C (45 FR 59887, September 11, 1980); and footnote 1 to paragraph (a)(3), omitted in the most recent edition of the CFR, is added.

In § 173.357, paragraph (b)(1) is revised to include requirements for valve protection which were adopted under Docket HM–139C (45 FR 46419, July 10, 1980) but inadvertently omitted in a later revision of this paragraph under Docket HM–166C (45 FR 59887, September 11, 1980).

In § 173.359, paragraphs (a), (a)(13), and (c) are revised by having the suffix "n.o.s." removed from the entries "organic phosphate compound mixtures, n.o.s." and "organic phosphorus compound mixtures, n.o.s." to make these descriptions compatible with those which appear in the Hazardous Materials Table.

In § 173.392, paragraph (d)(2)(ii) is amended by replacing obsolete cargo tank specification section references with the current section number.

In § 173.1090, paragraph (d)(5) is removed since it no longer contains timely information.

Throughout Part 173, changes are made to indicate the transfer of certain functional responsibilities from the Associate Director for OE to the Associate Director for HMR.

The following sections are amended to remove the phrase "because of the present emergency and" since the state of emergency no longer exists: § 173.28(g) Note 1, § 173.119(b)(3) Note 1; and (b)(4) Note 1, § 173.190(b)(3)(i) Note 1, § 173.346(a)(8).

Part 174

In § 174.25, paragraph (a)(2) is amended to add a line item to the Table for the hazard class "Blasting agent"; and paragraph (c) is revised to indicate that billings must communicate the presence of the reportable quantity of a hazardous substance, when appropriate.

In § 174.61, paragraph (b) is changed to reflect the transfer of a functional responsibility from the Associate Director for OE to the Associate Director for HMR.

Part 175

In § 175.25, paragraph (b) is removed since it no long contains timely information.

In § 175.45, paragraph (c) is changed to reflect the name of the new office in MTB to which written incident reports are to be addressed.

In § 175.701, paragraph (c) is amended to reflect the transfer of a functional responsibility from the Associate Director for Operations and Enforcement to the Associate Director for HMR; and paragraph (c)(2) is changed, for the sake of clarity, by removing the word "laterally."

Part 177

In § 177.835, paragraph (g) is amended to specify that detonators may not be transported on the "same" motor vehicle with any Class A or Class B explosive (except detonators). The word "same" was inadvertently dropped in the 1980 and 1981 editions of Title 49.

Changes are made to indicate the transfer of certain functional responsibilities from the Associate Director of OE to the Associate Director for HMR in the following sections: § 177.821(f), § 177.838(g), § 177.848 note 5.

Part 178

Section 178.65–14 is amended by removing the note following paragraph (b)(8) since it no longer contains timely information.

In § 178.68–10, paragraph (a)(2) is amended to reflect the correct cross-reference for physical tests of tensile strength of the material.

Throughout Part 178, changes are made to indicate the transfer of certain functional responsibilities from the Associate Director for OE to the Associate Director for HMR.

Throughout Part 178, changes are made to remove the phrase "because of the present emergency and" since the state of emergency no longer exists.

Part 179

In § 179.202–16, paragraph (b) is changed to permit specification 103AW and 111A60W2 tank cars, which have been coated or lined with a material suitable to resist corrosion, for the carriage of monochloroacetic acid, anhydrous, when shipped as a liquid, as indicated in § 173.294(b).

In § 179.500–4, paragraph (b) is amended by having the divisor 2.0 in the formula $S = U/2.0$ changed to 3.0 to reflect the correct factor of safety.

List of Subjects

49 CFR Part 107

Hazardous materials transportation.

49 CFR Part 171

Hazardous materials transportation.

49 CFR Part 172

Hazardous materials transportation.

49 CFR Part 173

Hazardous materials transportation.

49 CFR Part 174

Hazardous materials transportation, Railroad safety.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

49 CFR Part 177

Hazardous materials transportation, Motor carriers.

49 CFR Part 178

Hazardous materials transportation, Packaging and containers.

49 CFR Part 179

Hazardous materials transportation, Railroad safety.

In consideration of the foregoing, 49 CFR Parts 107, 171 through 175, and 177 through 179 are amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

§ 107.119 [Amended]

1. In § 107.119, paragraphs (b), (c), and (d) are amended by removing the words "of OE."

§ 107.121 [Amended]

2. Section 107.121 is amended by removing the words "of OE."

§ 107.373 [Amended]

2a. Section 107.373 is amended by removing the word "employer" and inserting, in its place, the word "employee."

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

§ 171.16 [Amended]

3. In § 171.16, paragraph (b) is amended by removing the words "Chief, Information Systems Division, Transportation Programs Bureau" and inserting, in their place, "Information Systems Manager, Materials Transportation Bureau."

§ 171.19 [Amended]

4. Section 171.19 is amended by removing the words "Associate Director for OE" and inserting, in their place, the words "Associate Director for HMR."

§ 171.20 [Amended]

5. In § 171.20, paragraphs (a) and (c) are amended by removing the words "Associate Director for OE"; and inserting in their place, the words "Associate Director for HMR"; and paragraph (b) is amended by removing the words "Associate Director for Operations and Enforcement" and inserting, in their place, the words "Associate Director for Hazardous Materials Regulation."

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

6. In § 172.101, the Hazardous Materials Table is amended as follows:

§ 172.101 Hazardous materials table.

(1)	(2)	(3)	(3)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Exceptions (a)	Specific requirements (b)	Passenger carrying aircraft or railcar (a)	Cargo only aircraft (b)	Cargo vessel (a)	Passenger vessel (b)	Other requirements (c)
	Additions										
	Infectious substances, human, n.o.s., *See* Etiologic Agent, n.o.s.		UN2814								
	Revisions										
A	Allethrin	ORM-A	NA2902	None	173.505	173.510	No limit	No limit			
	Barrel, empty. See Drum, empty.										
E	Electrolyte (acid) battery fluid (*not over 47% acid*) (*RQ 1000/454*). *See* Battery fluid, acid.										
	Gas cylinder, empty. See Cylinder, empty.										
	High explosive	Class A explosive		Explosive A	173.65	173.61 173.87	Forbidden	Forbidden	6	5	
E	Hydrogen fluoride (*RQ-5000/2270*).	Corrosive material	UN1052	Corrosive	None	173.264	Forbidden	110 pounds.	1	5	Segregation same as for nonflammable gases.
E	Nitrogen peroxide, liquid (*RQ-1000/454*).	Poison A	NA1067	Poison gas and oxidizer.	None	173.336	Forbidden	Forbidden	1	5	Segregation same as for nonflammable gases. Stow away from organic materials.

(1)	(2)	(3)	(3)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
E	Nitrogen tetroxide, liquid (*RQ-1000/454*).	Poison A	NA1067	Poison gas and oxidize.	(a) None	(b) 173.336	(a) Forbidden	(b) Forbidden	(a) 1	(b) 5	(c) Segregation same as for nonflammable gases. Stow away from organic materials
A	Phenylenediamine, meta or para, solid.	ORM-A	UN1673	None	173.505	173.510	No limit	No limit			
	Tank car, empty (previously used for a hazardous material). See 173.29.										
	Tank car, empty (previously used for a Poison A material). See 172.510 and 173.29.										
	Tank, portable, empty (previously used for a hazardous material). See 172.510, 172.514 and 173.29.										
	Tank truck, empty. See 172.510, 172.514 and 173.29.										

§ 172.200 [Amended]

7. In § 172.200, paragraph (c) is removed.

§ 172.203 [Amended]

8. In § 172.203, paragraph (i)(2)(iii), (j)(1), and (k)(3)(iii) are removed.

§ 172.301 [Amended]

9. In § 172.301, paragraph (c)(3) is removed.

§ 172.302 [Amended]

10. In § 172.302, paragraph (c) is removed.

§ 172.336 [Amended]

11. In § 172.336, paragraph (c)(8) is removed.

§ 172.407 [Amended]

11a. In § 172.407, paragraph (d)(5) is removed.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

§ 173.21 [Amended]

11b. In § 173.21, paragraphs (b)(2) and (e) are amended by removing the words "Operations and Enforcement" and inserting, in their place, the words "Hazardous Materials Regulation."

§ 173.55 [Amended]

12. In §173.55, paragraph (a) is amended by removing the words "dangerous articles" in both instances and inserting, in their place, the words "hazardous materials."

§ 173.114a [Amended]

13. In § 173.114a, paragraph (d) is amended by removing the words "Operations and Enforcement (OE)" and inserting, in their place, the words "Hazardous Materials Regulation (HMR)"; and paragraph (j) is removed.

§ 173.115 [Amended]

14. In § 173.115, Note 1 following paragraph (a)(1)(ii) is removed.

§ 173.125 [Amended]

15. In § 173.125, paragraph (a)(8) is removed.

§ 173.128 [Amended]

16. In § 173.128, paragraph (a)(5) is removed.

§ 173.129 [Amended]

17. In § 173.129, paragraph (a)(3) is removed.

§ 173.131 [Amended]

18. In § 173.131, paragraph (a)(3) is removed.

§ 173.132 [Amended]

19. In § 173.132, paragraph (a)(4) is removed.

§ 173.144 [Amended]

20. In § 173.144, paragraph (a)(4) is removed.

§ 173.147 [Amended]

21. In § 173.147, paragraph (a)(2) is removed.

22. In § 173.292, paragraph (a)(2) is revised to read as follows:

§173.292 Hexamethylene diamine solution.

(a) * * *

(2) Specifications MC 300, MC 301, MC 302 or MC 305. Tank motor vehicles.

* * * * *

§ 173.300a [Amended]

22a. In § 173.300a, paragraphs (b)(1) and (e) are amended by removing the words "Operations and Enforcement" and inserting, in their place, the words "Hazardous Materials Regulation."

§ 173.300b [Amended]

22b. In §173.300b, paragraph (b)(1) is amended by removing the words, "Operations and Enforcement" and inserting, in their place, the words "Hazaradous Materials Regulation."

§ 173.302 [Amended]

23. In § 173.302, paragraph (c)(3) is amended by removing from Note 1 and Note 2 the formulas:

"$EE=PKV\times D^2/(D^2-d^2)$", and

"$S=P((1.3D^2+0.4d^2)/D^2-d^2)$) and inserting, in their respective place, the formulas:

"$EE=(PKVD^2)/(D^2-d^2)$", and

"$S=(P(1.3D^2+0.4d^2))/(D^2-d^2)$".

§ 173.331 [Amended]

24. In § 173.331, paragraph (a)(1) is amended by removing the number "6" as it appears in the first sentence and inserting, in its place, the number "5".

§ 173.334 [Amended]

25. In § 173.334, paragraph (a)(1) is amended by adding specification "4B240" to the listing of other authorized cylinders.

25a. In §173.353, paragraph (a)(3) is revised, and footnote 1 is added to read as follows:

§ 173.353 Methyl bromide and methyl bromide mixtures.

(a) * * *

(3) Specification 3A225, 3AA225, 3B225, 3E1800, 4A225[1], 4B225, 4BA225, or 4BW225, (§§ 178.36, 178.37, 178.38, 178.42, 178.49, 178.50, 178.51, 178.61 of this subchapter). Metal cylinders. Values and other closing devices must be protected to prevent damage in transit by equipping the cylinder with valve protection required by §173.301(g). Cylinders having a wall thickness of less than 0.08-inch must be packed in boxes or crates (See § 173.25).

* * * * *

26. In § 173.357, paragraph (b)(1) is revised to read as follows:

§ 173.357 Chloropicrin and chloropicrin mixtures containing no compressed gas or poison A liquid.

* * * * *

(b) * * *

(1) Specification 3A, 3AA, 3B, 3C[1], 3D[1], 3E, 4A[1], 4B, 4BA, 4BW, or 4C[1] (§§ 178.36, 178.37, 178.38, 178.40, 178.41, 178.42, 178.49, 178.50, 178.51, 178.52, 178.61 of this subchapter). Metal cylinders. Valves and other closing devises must be protected to prevent damage in transit by equipping the cylinders with valve protection required by §173.301(g) of this subchapter. A cylinder closed by means of a solid plug may have the closure protected by a metal collar. Cylinders having a wall thickness of less than 0.08 inch must be packaged in boxes or crates. Each cylinder having a water capacity over 275 pounds must have a minimum design pressure of 225 p.s.i.g., unless the specification requires a higher minimum design pressure.

* * * * *

§ 173.359 [Amended]

27. In § 173.359, paragraphs (a), (a)(13), and (c) are amended by removing the suffix "n.o.s." each time it appears as a part of the materials description.

[1] Use of existing cylinders authorized, but new construction not authorized.

§ 173.392 [Amended]

28. In § 173.392, paragraph (d)(2)(ii) is amended by removing the parenthetical section references "§ 178.330, § 178.331" and inserting, in their place, "§ 178.340".

§ 173.1090 [Amended]

29. In § 173.1090, paragraph (d)(5) is removed.

PART 173 [AMENDED]

30. In addition to the amendments set forth above, Part 173 is amended by removing the words "Asssociate Director for OE" and inserting, in their place, the words "Associate Director for HMR" in the following places:

§ 173.24(c)(1)(ii)
§ 173.31 (footnote (i))
§ 173.32(b)(3)
§ 173.34(g)(4)(ii); (i); (i)(4)(i); (1); (1)(2); and (1)(3)
§ 173.53(h) and (h)(1)
§ 173.65(h)
§ 173.88(g)
§ 173.94(b)
§ 173.100(r); (r)(11); (u); (x); (y); (aa); and (ee)
§ 173.114a(d)(2); (d)(4); and (e)
§ 173.119(b)(3) Note 1
§ 173.120(c)
§ 173.124(a)(1); and (a)(2)
§ 173.197a
§ 173.245(a)(25)
§ 173.252(g)(1)
§ 173.256(a)(3)
§ 173.260(g)
§ 173.266(f)(2)
§ 173.272(i)(18)
§ 173.300(b)(1)
§ 173.300a(c); (d); (e); (g); (h); and (i)
§ 173.300b(c); (d); (e); (f); (g)
§ 173.300c(a); and (b)
§ 173.305(c)(1)
§ 173.306(d)(1)
§ 173.315(i)(12)
§ 173.332(d)
§ 173.336(a)(4)
§ 173.366(a)(3)
§ 173.370(a)(13)
§ 173.385(b); and (c)

30a. In addition to the amendments set forth above, Part 173 is amended by removing the words "because of the present emergency and" from the following sections:

§ 173.28(g) Note 1
§ 173.119(b)(3) Note 1; and (b)(4) Note 1
§ 173.190(b)(3)(i) Note 1
§ 173.346(a)(8)

PART 174—CARRIAGE BY RAIL

31. In § 174.25, the table in paragraph (a)(2) is amended by inserting the line entry "Blasting agent—Do—Do" in the appropriate columns and immediately below "Explosives, Class C—Placarded DANGEROUS—Do"; and paragraph (c) is revised by adding a new sentence at the end of the paragraph to read as follows:

§ 174.25 Additional information on waybills, switching orders and other billings.

* * * * *

(c) * * * For an empty tank car that last contained a hazardous substance and still contains a reportable quantity, the letters "RQ" shall be entered on the billing either before or after the basic description.

* * * * *

32. In § 174.61, paragraph (b) is amended by removing the words "Associate Director for OE" and inserting, in their place, the words "Associate Director for HMR."

PART 175—CARRIAGE BY AIRCRAFT

§ 175.25 [Amended]

33. In § 175.25, paragraph (b) is removed.

§ 175.45 [Amended]

34. In § 175.45, paragraph (c) is amended by removing the words "Office of Hazardous Materials Regulations" and inserting, in their place, "Information Systems Manager."

§ 175.701 [Amended]

35. In § 175.701, paragraph (c) is amended by removing the words "Operations and Enforcement" and inserting, in their place, the letters "HMR"; and paragraph (c)(2) is amended by removing the word "laterally."

PART 177—CARRIAGE BY PUBLIC HIGHWAY

§ 177.835 [Amended]

35a. In § 177.835, paragraph (g) is amended by adding the word "same" immediately prior to the word "motor" in the second sentence.

PART 177 [AMENDED]

36. Part 177 is amended by removing the words "Associate Director for OE" and inserting, in their place, the words "Associate Director for HMR" in the following places:

§ 177.821(f)
§ 177.838(g)
§ 177.848 Note 5

PART 178—SHIPPING CONTAINER SPECIFICATIONS

§ 178.65-14 [Amended]

37. Section 178.65-14 is amended by removing the "Note" which follows paragraph (b)(8); and paragraph (d) is amended by removing the words "Operations and Enforcement" and inserting, in their place, the words "Hazardous Materials Regulation."

§ 178.68-10 [Amended]

38. In § 178.68-10, paragraph (a)(2) is amended by removing the section reference "178.63-15" and inserting, in its place, "178.68-15."

PART 178 [AMENDED]

39. In addition to the amendments set forth above, Part 178 is amended by removing the words "Associate Director for OE" and inserting, in their place, the words "Associate Director for HMR" in the following places:

§ 178.5–9(f)
§ 178.6–8(a)(2)
§ 178.6–10(f)
§ 178.13–2(a)
§ 178.13–5(a)(2)
§ 178.14–3(a)
§ 178.14–7(a)(2)
§ 178.14–8(f)
§ 178.19–6(a)(3)
§ 178.21–2(b)(2)
§ 178.24–5(a)(2)
§ 178.27–2(c)(2)
§ 178.33–9(a)(2)
§ 178.33a–9(a)(2)
§ 178.35–3(b)(2)
§ 178.35a–2(c)(2)
§ 178.36–3
§ 178.37–3
§ 178.38–3
§ 178.39–3
§ 178.42–3
§ 178.44–3
§ 178.45–3
§ 178.47–3
§ 178.50–3
§ 178.51–3
§ 178.53–3
§ 178.54–3
§ 178.55–3
§ 178.56–3
§ 178.57–3
§ 178.58–3
§ 178.59–3(a)
§ 178.60–3(a)
§ 178.61–3
§ 178.65–3 (a), (b) and (c)
§ 178.68–3
§ 178.80–11(a)(2)
§ 178.80–14(a)
§ 178.81–11(a)(2)
§ 178.81–14(a)
§ 178.82–11(a)(2)
§ 178.82–14(a)
§ 178.83–11(a)(2)
§ 178.83–14(a)
§ 178.88–10(a)(2)
§ 178.88–13(a)
§ 178.89–5(c)
§ 178.89–9(a)(2)
§ 178.89–12(a)
§ 178.90–10(a)(2)
§ 178.90–13(a)
§ 178.92–9(a)
§ 178.92–12(a)(2)
§ 178.98–9(a)(2)
§ 178.98–12(a)
§ 178.99–9(a)(2)
§ 178.99–12(a)
§ 178.100–9(a)(2)
§ 178.102–4(a)(2)
§ 178.103–6(a)(3)
§ 178.107–9(a)(2)
§ 178.107–12(a)
§ 178.109–7(a)
§ 178.109–9(a)(2)
§ 178.109–12(a)
§ 178.115–10(a)(2)
§ 178.115–13(a)
§ 178.116–10(a)(2)
§ 178.116–13(a)
§ 178.117–11(a)(2)
§ 178.117–14(a)
§ 178.118–10(a)(2)
§ 178.118–13(a)
§ 178.130–8(a)(2)
§ 178.131–9(a)(3)
§ 178.132–7(a)
§ 178.132–9(a)(3)
§ 178.133–9(a)(2)
§ 178.134–4(a)(2)
§ 178.135–8(a)(3)
§ 178.141–7(a)(2)
§ 178.146–15(a)(2)
§ 178.147–15(a)(2)
§ 178.148–5(a)(2)
§ 178.149–7(a)(2)
§ 178.150–7(a)(3)
§ 178.156–12(a)(2)
§ 178.165–13(b)
§ 178.168–18(d)
§ 178.169–18(d)
§ 178.170–17(d)
§ 178.171–17(d)
§ 178.172–19(b)
§ 178.176–6(b)
§ 178.177–6(b)
§ 178.181–11(b)
§ 178.182–4(a)(2)
§ 178.185–19(b)
§ 178.185–22(c)(2)
§ 178.186–19(b)
§ 178.187–5(b)
§ 178.190–9(a)(2)
§ 178.191–9(a)(2)
§ 178.193–6(a)(2)
§ 178.194–6(b)
§ 178.196–15(a)(2)
§ 178.197–14(a)(2)
§ 178.198–4(a)(2)
§ 178.205–18(a)(2)
§ 178.206–18(a)(2)
§ 178.207–18(a)(2)
§ 178.208–12(a)(2)
§ 178.209–13(a)(2)
§ 178.209–14(a)
§ 178.210–12(a)(2)
§ 178.211–3(a)(1)(v)
§ 178.211–6(a)(2)
§ 178.212–8(a)(2)
§ 178.214–8(a)
§ 178.214–17(a)(2)
§ 178.214–18(a)
§ 178.218–10(a)(2)
§ 178.218–11(a)
§ 178.219–13(a)(2)
§ 178.219–14(a)
§ 178.244–4(a)(2)
§ 178.225–3 (a)(1)(ii) and (a)(2)(ii)
§ 178.226–4(a)(2)
§ 178.230–8(a)(2)
§ 178.233–9(a)(2)
§ 178.234–9(a)(2)
§ 178.236–7(b)
§ 178.237–7(b)
§ 178.238–7(b)
§ 178.239–7(b)
§ 178.240–10(a)(2)
§ 178.241–5(b)
§ 178.245–7(a)
§ 178.255–8(a)
§ 178.255–15(a)

39a. In addition to the amendments set forth above, Part 178 is amended by removing the letters "OHMR" and inserting, in their place, the letters "HMR" in the following places:

§ 178.36–20(a)(3)
§ 178.37–20(a)(3)
§ 178.38–20(a)(2)
§ 178.39–19(a)(2)
§ 178.42–14(a)(2)
§ 178.44–23(a)(2)
§ 178.47–21(a)(2)
§ 178.50–19(a)(2)
§ 178.51–19(a)(2)
§ 178.53–18(a)(2)
§ 178.54–20(a)(2)
§ 178.55–20(a)(2)
§ 178.56–19(a)(2)
§ 178.57–20(a)(2)
§ 178.58–21(a)(2)
§ 178.59–18(a)(2)
§ 178.60–22(a)(2)
§ 178.61–20(a)(2)
§ 178.68–19(a)(2)

39b. In addition to the amendments set forth above, Part 178 is amended by removing the words "because of the present emergency and" from the following sections:

§ 178.156–7(a)(2) Note 1; and (a)(3) Footnotes 1 and 2
§ 178.156–12(a)(3) Note 1
§ 178.165–12(a) Note 1
§ 178.196–7(a) Note 1
§ 178.196–11(a) Note 1
§ 178.230–3(a) Note 1

PART 179—SPECIFICATIONS FOR TANK CARS

§ 179.202–16 [Amended]

40. In § 179.202–16, paragraph (b) is amended by inserting the words "or be" immediately prior to the word "provided."

§ 179.500–4 [Amended]

41. In § 179.500–4, paragraph (b) is amended by removing the formula "S=U/2.0" and inserting in its place "S=U/3.0."

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A. to Part 1)

Issued in Washington, D.C., on September 24, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82–26872 Filed 9–29–82; 8:45 am]

BILLING CODE 4910–60–M

National Highway Traffic Safety Administration

49 CFR Part 577

[Docket No. 80–17; Notice 2]

Denial of Petitions for Reconsideration

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petitions for reconsideration of a final rule.

SUMMARY: This notice denies petitions for reconsideration of an amendment to the agency's defect and noncompliance notification regulation. The amendment added the agency's Auto Safety Hot Line telephone number to the procedure set forth in defect and noncompliance notification letters for consumers to contact the agency. Petitioners contended that the amendments should have been preceded by a proposal and request for comments. The agency concludes that the amendment was a technical amendment which clarified a minor procedural aspect of the notification regulation and which has negligibly affected regulated parties. The agency notes further that the inclusion of the Hot Line in notification letters will improve the agency's efficiency in monitoring recalls and identifying problems regarding them.

FOR FURTHER INFORMATION CONTACT: Mr. James Murray, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2840).

SUPPLEMENTARY INFORMATION: On January 22, 1981 (46 FR 6971), the agency published a final rule requiring the inclusion of the agency's Auto Safety Hot Line telephone number in defect and noncompliance letters. The purpose of that amendment to 49 CFR Part 577, *Defect and Noncompliance Notification,* was to elaborate upon the means which Congress intended consumers to have in order to inform the agency about problems involving the recall of defective or noncomplying motor vehicles and motor vehicle equipment. The agency made the amendment without notice and opportunity for comment, because the agency determined the amendment to be a minor technical clarification of Part 577 with little impact on the manufacturers.

In response to that notice, the agency received several petitions for reconsideration of the amendment. The petitions were submitted by manufacturers, an individual, and the Motor Vehicle Manufacturers Association (MVMA).

The petitioners first argued that the amendment was improperly processed under rulemaking procedures and should therefore be retracted. The agency disagrees. The Administrative Procedure Act (APA) permits rulemaking without notice and comment when the action is interpretive, involves agency procedure or when the agency finds for good cause that notice and comment are unnecessary. The agency believes that elements of all these exceptions were involved in the amendment in question. The APA recognizes the appropriateness of allowing shortened procedures for minor technical amendments that clarify, facilitate, or update a minor provision of a standard or regulation. To undertake a full rulemaking proceeding in these instances is a waste of agency resources.

Since June 28, 1977, the defect and noncompliance regulation has required manufacturers to include the agency's name and address in defect and noncompliance letters. This requirement was adopted in compliance with the Motor Vehicle and Schoolbus Safety

Amendments of 1974, Public Law 93–492, 88 Stat. 1470. As a result of those amendments, section 153(a)(6) of the National Traffic and Motor Vehicle Safety Act of 1966, as amended, requires that defect and noncompliance letters contain

> a description of the *procedure* to be followed by the recipient of the notification in informing the Secretary whenever a manufacturer, distributor, or dealer fails or is unable to remedy without charge such defect or failure to comply.

15 U.S.C. 1413(a)(6) [emphasis added].

Upon further consideration of section 153(a)(6) in late 1980, the agency interpreted the procedure mandated by Congress for contacting it as being intended to include not only the agency's address, but also its telephone number. A telephone number is typically an integral part of the information given by goverment agencies, corporations and other entities regarding the procedure for contacting them. Accordingly, in January 1981, the agency amended Part 577 to require manufacturers to include the agency's Auto Hot Line as part of the procedure for recipients of notification letters to contact the agency. Since the amendment merely required the addition of a 10-digit number to notification letters, the agency concluded that the effects of the amendment on the manufacturer were minor.

A second argument advanced by the petitioners is that the effects of the Hot Line amendment on manufacturers would not be minor, and therefore the amendment could not be made under the APA exception for minor, technical amendments. The petitioners suggested that the inclusion of the Hot Line would result in a proliferation of telephone calls from notification letter recipients to NHTSA to manufacturers to dealers.

The agency disagrees with the petitioners' contentions regarding impact. Petitioners do not even attempt to argue that the amendment has more than a negligible direct impact on manufacturers. Instead, they seek to argue that the amendment will, through an extended chain of events, have an indirect impact on them. The suggestion that the amendment will lead to a substantial increase in the communications from consumers to NHTSA to manufacturers is both speculative and improbable.

Neither the recall experience before nor since the Hot Line amendment furnishes any support for the proposition advanced by the petitioners. The manufacturer, not the agency, has been and continues to be the typical first point of contact by consumers with questions about notification letters. Most consumers prefer to deal directly with the manufacturers when any problem first arises regarding a recall campaign. The agency is typically contacted subsequently only if the recall problems are perceived by the consumers to remain unsolved. It is precisely in those circumstances that the agency should be contacted so that it can meet its responsibilities to ensure the implementation of the recall and remedy provisions of the Vehicle Safety Act. There is no indication, however, that the addition of the Hot Line number to the agency's address in notification letters has led to any significant increase in these contacts with the agency. Indeed, in the past, the Hot Line has had the effect of screening out large numbers of information requests and complaints which might have been based on misunderstandings relating to recalls. Thus, those calls never reached the manufacturers.

Further, those instances in which consumers do contact the agency have previously been taken into account. When Part 577 was amended to include the agency's address, NHTSA considered the impacts of those contacts on the agency and any resultant impact on the manufacturers. The agency has no basis for assuming that the degree of impact on manufacturers will increase as a result of the Hot Line amendment.

Petitioners also contended that the agency would be required to hire additional staff to answer the Hot Line as a result of this amendment. The agency has no plans to hire any additional personnel as a result of this amendment and does not anticipate a substantial increase in the number of Hot Line calls. Thus, the amendment will not be burdensome to NHTSA. In fact, the amendment was an agency procedural rule facilitating efficiency since it will allow the agency to handle more complaints or requests from the public by telephone. It is simpler for the agency to supply information by telephone rather than by processing letters from the public and sending written responses. The agency's response by telephone will be quicker and better tailored to the specific request as revealed through the telephone discussion. Moreover, the agency believes that the addition of the number will be beneficial to manufacturers since it will allow the agency to filter public communications that only seek information about recall campaigns, rather than to register complaints with manufacturers. With the addition of the number, the agency will likely receive many requests for information that the manufacturers would have otherwise gotten. Therefore, any increase in calls resulting from the Hot Line number will likely be informational and would not result in any increased impact on manufacturers.

For the reasons stated above, the agency reiterates its conclusion that the amendment in question (§ 577.5) was a minor, technical rule that had no significant impact on the regulatory structure of Part 577, and that the rights of petitioners were not significantly changed by the regulation. Therefore, the agency believes that there was good cause for concluding that notice and comment were unnecessary prior to issuance of this rule. Accordingly, the petitions for reconsideration are hereby denied.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1391, 1407); delegation of authority at 49 CFR 1.50)

Issued on September 22, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82–26618 Filed 9–29–82; 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1002

Change in Insurance Billing Cycle

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is changing its procedure for billing the insurance companies which submit certificates of insurance and surety bonds covering motor carriers, freight forwarders and brokers from an annual billing to a monthly billing. Under the new system, receipted copies of all certificates of insurance or surety bonds accepted for filing by the Commission will be returned to the insurer at the close of the month with a statement of charges. To permit monthly billing by the Commission, the language 49 CFR 1002.2 is amended. There is no change in the fees assessed. This change will permit insurers to verify the charges assessed and reduce paperwork and recordkeeping for both the Commission and the insurers.

EFFECTIVE DATE: November 1, 1982.

FOR FURTHER INFORMATION CONTACT: Edward C. Fernandez, (202) 275–7591.

SUPPLEMENTARY INFORMATION: In the past, the Commission has assessed an annual qualification service fee for

insurer, surety, or self-insurer accepted certificates of insurance or surety bonds based on a formula of $10 per accepted certificate or surety bond, with a minimum annual fee of $50. Once yearly each insurer has been furnished a listing of accepted filings and an annual statement of charges. The Commission has also been returning actual copies of these filings to the insurers, twice monthly by letter.

In order to simplify the procedure for both the insurers and the Commission, new procedures are being adopted which will return copies of certificates of insurance and surety bonds to the insurers at the close of each month with a monthly statement of filing charges. This change will permit insurers to verify the charges assessed and reduce paperwork and recordkeeping for both the Commission and the insurers.

List of Subjects in 49 CFR Part 1002

Freedom of Information, Administrative practice and procedures, Common carriers.

PART 1002—FEES

Accordingly, 49 CFR Part 1002 is amended to reflect the change in billing procedures as follows:

§ 1002.2 [Amended]

In § 1002.2 paragraph (d), item (39) and footnote number (3) under PART IV: OTHER PROCEEDINGS, are amended by revising the word "annual" to read "monthly."

This is not a major Federal action significantly affecting the quality of the human environment or the conservation of energy resources.

We find that this procedural change in our rules will not have an adverse or substantial effect on small entities, insurance companies, or regulated carriers. The monthly billings sent to the insurance companies will not increase the amount paid by the companies, only their record keeping methods will be affected. We believe that the revised procedure, which provides for monthly verification of charges will be beneficial to those record keeping efforts. Moreover, notice and public comment are unnecessary since the change involved is minor and concerns a matter in which the public is not particularly interested.

(49 U.S.C. 10321; 5 U.S.C. 559; 5 U.S.C. 553 (b)(A) and (b)(B))

By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: September 20, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27017 Filed 9-29-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Rock Island and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Forty-First Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 11:59 p.m., September 30, 1982, and continuing in effect until 11:59 p.m., January 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-1559.

SUPPLEMENTARY INFORMATION:

Decided: September 24, 1982.

Upon further consideration of Forty-first Revised Service Order No. 1473 (47 FR 32426), and with respect to this amendment, the Board recognizes that certain revisions to the order have been requested and that other matters related to this order are before the Board for consideration. However, in order not to adversely affect shippers and the unaffected carriers and due to the shortness of time, all revisions are being considered subsequent to this amendment and good cause appearing therefor:

§ 1033.1473 [Amended]

It is ordered, § 1033.1473 Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee) Forty-first Revised Service Order No. 1473 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This order shall become effective at 11:59 p.m., September 30, 1982.

This action is taken under authority of 49 U.S.C. 10304-10305 and Section 122, Pub. L. 96-254.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms to that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard and John H. O'Brien. J. Warren McFarland not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26985 Filed 9-29-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 190
Thursday, September 30, 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.

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Docket No. R-0423]

Regulation T; Credit by Brokers and Dealers; Private Mortgage Pass-Through Securities as OTC Margin Bonds

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing for public comment an amendment to Regulation T that will specify the characteristics of "private" mortgage pass-through securities (i.e., not guaranteed by agencies of the United States government) that may be used as collateral for margin credit at securities brokerage firms. The existing definition of "OTC margin bond" in Regulation T will be expanded to cover these instruments. At present, any "OTC margin bond" is eligible for credit on a "good faith" basis. The proposed criteria for inclusion of a private mortgage pass-through security in the definition of "OTC margin bond" differ from the criteria in the existing definition because of the nature of the mortgage pass-through security. Unlike a typical corporate bond, the principal balance of this security declines each month as mortgages backing the security are amortized or prepaid. The proposed criteria, therefore, will require (1) an original issue of $25,000,000 (rather than an outstanding principal amount at the time credit is extended) that may be sold in separate series, (2) current filings with the Securities and Exchange Commission, and (3) the passing through of mortgage interest and principal payments by the servicing agent according to the terms of the offering. The Board specifically requests comment as to whether the $25,000,000 minimum initial size is an appropriate criterion to establish adequate marketability of the security for margin account purposes. In addition, the Board requests views as to the likelihood that a broker would liquidate these securities to meet margin calls when there are other types of securities in the customer's account with that broker.

DATE: Comments should be received on or before October 29, 1982.

ADDRESS: Comments, which should refer to Docket No. R-0423, may be mailed to the Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, D.C. 20551 or delivered to Room B-2223 between 8:45 a.m. and 5:14 p.m. Comments received may also be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Laura Homer or Robert Lord, Division of Banking Supervision and Regulation (202) 452-2781 or David Seiders, Division of Research and Statistics, (202) 452-2694, at the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Initial Regulatory Flexibility Analysis:

The Board believes there will be no significant economic impact on a substantial number of small entities if this proposed rule is adopted.

List of Subjects in 12 CFR Part 220

Banks, banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting requirements, Securities.

PART 220—CREDIT BY BROKERS AND DEALERS

Pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and w), the Board proposes to amend Regulation T (12 CFR 220) by revising § 220.2(i) as set forth below:

§ 220.2 Definitions.

* * * * *

(i) The term "OTC margin bond" means (1) a debt security not traded on a national securities exchange which meets all of the following requirements:

(i) At the time of the extension of credit, a principal amount of not less than $25,000,000 of the issue is outstanding.

(ii) The issue was registered under section 5 of the Securities Act of 1933 and the issuer either files periodic reports pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 or is an insurance company which meets all of the conditions specified in section 12(g)(2)(G) of the Act.

(iii) At the time of the extension of credit, the creditor has a reasonable basis for believing that the issuer is not in default on interest or principal payments; or

(2) A private mortgage pass-through security (not guaranteed by an agency of the U.S. government) meeting all of the following requirements:

(i) An aggregate principal amount of not less than $25,000,000 (which may be issued in series) was issued pursuant to a registration statement filed with the Securities and Exchange Commission under section 5 of the Securities Act of 1933.

(ii) Current reports relating to the issue have been filed with the Securities and Exchange Commission.

(iii) At the time of the credit extension, the creditor has a reasonable basis for believing that mortgage interest and principal payments are being passed through and that the servicing agent is meeting all the obligations required under the terms of the offering.

By order of the Board of Governors of the Federal Reserve System, September 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-26606 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 82-ASW-58]

Airworthiness Directives; Bell Helicopter Model 206L and 206L-1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) which would require inspection of the float inflation valve assembly on all Bell Model 206L and 206L-1 series helicopters equipped with an emergency flotation system to determine if the piston pin is installed correctly. The proposed AD is needed to prevent

failure of the emergency flotation system (i.e., failure of the float bags to inflate). Failure of the bags to inflate would result in loss of the helicopter in the event of ditching.

DATE: Comments must be received on or before November 8, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Office of the Regional Counsel, Attention: Docket No. 82–ASW–58, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

A copy of the service information may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106. A copy of the service information may be obtained from Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: J. R. Bannister, Helicopter Certification Branch, ASW–170, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624–4911, extension 521.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Office of the Regional Counsel, Southwest Region Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

In a recent report of a flight over water, a Model 206L–1 developed loss of engine power. The pilot autorotated toward the water, actuating the emergency flotation equipment as the helicopter approached the water. The emergency floatation pneumatic system valve failed to actuate and allow inflation of the float bags. On landing in the water, the helicopter rotated to an inverted position, floating partly submerged, allowing the nitrogen cylinder to be salvaged and returned to Bell Helicopter Textron, Inc., for investigation.

Examination of the valve assembly revealed that the squib charge had fired. Further investigation revealed that the shear head release piston pin had been incorrectly installed and was wedged in the machines groove of the shear head. The binding of the piston pin in the machined groove prevented released of the shear head and release of the nitrogen gas to inflate the float bags. Bell Helicopter Textron, Inc., Technical Bulletin No. 206L–81–21 was issued to accomplish the inspection of the shear pin for correct installation in relation to the shear head. To assure that the valve assemblies are inspected for proper assembly within the next 150 flight hours, the FAA is proposing to adopt a new AD for all Bell Model 206L and 206L–1 series helicopters equipped with emergency flotation equipment kits P/N 206–706–067–1, –3, –5, –101, and 206–706–210–101 and –103.

Approximately 270 helicopters may have the shear head release piston pin installed incorrectly. The cost impact for the inspection is approximately $185.50 for each helicopter, and $50,085 for the fleet.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety,

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Bell Helicopter Textron, Inc.: Applies to all model 206L and 206–1 helicopters certificated in all categories that are equipped with emergency flotation equipment kits P/N 206–706–067–1, –3, –5, –101, and 206–706–210–101, and –103.

Compliance is required within 150 hours' time in service after the effective date of this AD unless already accomplished in accordance with Service Bulletin 206L–81–21.

To determine whether the shear heads in the float inflation valve assembly have been damaged by incorrect installation, accomplish the following:

a. Disconnect the battery.

Note.—Do not disconnect electrical connector to the squib valve on the inflation valve at the cylinder assembly.

b. Remove the nitrogen gas from inflation cylinder, carefully bleeding off the gas through the Schrader inlet valve.

Caution

DO NOT ATTEMPT TO REMOVE THE SHEAR HEAD PISTON PIN PRIOR TO REMOVAL OF THE NITROGEN GAS FROM THE CYLINDER.

c. Carefully remove the shear head release piston pin. Visually inspect the pin, as removed, to determine if the position of the flat machined side of the piston pin faces the inlet end of the shear head machined groove (Ref. Figure 1, Bell Helicopter Textron Service Bulletin 206L–81–21, dated May 7, 1981).

d. If the shear head release piston pin has been installed by rotating the pin 90 to 180 degrees, placing the round side of the pin against the inlet side of the shear head inlet groove, the pin has been incorrectly installed.

e. If the shear head release piston pin is found installed incorrectly, remove the shear head from the valve body and discard. Install a new shear head and "O" rings. On installation, thread shear head into the valve body and torque to 20 foot-pounds, *prior to installing the shear head release piston pin.* Reinstall piston pin as described in paragraph f.

f. If the shear head release piston pin is found correctly installed, place "O" ring in groove of piston pin and install piston pin part way into body with flat side on end of piston pin facing inlet port. Rotate piston pin 90 degrees and lightly push piston pin down into valve body until it bottoms out. While pushing on piston pin, rotate piston pin 90 degrees in the opposite direction. Piston pin should drop deeper into body. Flat side of piston pin must engage groove in shear head, with flat side facing inlet port.

g. Refill cylinder with nitrogen. Check for leaks. Connect battery, and refer to appropriate service instruction.

Note

X-ray Inspection (Alternate Method)

Where X-ray equipment is available, inspection of the valve assembly may be accomplished by use of X-ray pictures. Reference Figure 2, Bell Helicopter Textron Service Bulletin 206L–81–21 dated May 7, 1981 or FAA approved equivalent for examples of correct and incorrect piston pin installation in the valve assembly. This eliminates the need to bleed off the nitrogen and to disassemble the valve assembly.

Caution

DISCONNECT AND REMOVE THE SQUIB FROM THE VALVE ASSEMBLY PRIOR TO USE OF X-RAY.

h. Equivalent means of compliance with the AD may be approved by the Manager, Aircraft Certification Division, Southwest Region, Fort Worth, Texas.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not major under Executive Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

It is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since it involves only 270 helicopters at a cost of $185.50 per helicopter. A draft regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

Issued in Fort Worth, Texas, on September 16, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-26881 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-72-AD]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an Airworthiness Directive (AD) that would require revision of the limitations section in the FAA approved Boeing Model 747 Airplane Flight Manual (AFM) and installation on the pilots' forward panel of low engine fan rotor rpm N_1 warning indication for each engine. The revision to the AFM would clarify operation of the thermal anti-icing procedure, the need to maintain the specified minimum N_1 during icing conditions, and expand the definition of icing conditions. Activation of the low N_1 indication would warn the flight crew of operation at a lower N_1 than required for icing conditions. Engine operation below this minimum rpm has caused multiple engine flameout and engine damage during certain airplane operations in icing conditions. The minimum N_1 warning and AFM information is needed to insure engines are not operated below a safe level during icing conditions.

DATES: Comments must be received on or before December 3, 1982.

ADDRESSES: Send comments to FAA Northwest Mountain Region, Office of the Regional Counsel, Attention: Docket No. 82-NM-72, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. The applicable Service Bulletin (S/B 747-77-2060) may be obtained from the Boeing Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT:

Kanji K. Patel, Propulsion Branch, ANM-140S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington telephone: (206) 767-2520

Mailing address: Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available both before and after the closing date in the rules docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the rules docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82-NM-72-AD, 17900 Pacific Highway South, C68966, Seattle, Washington, 98168.

Discussion

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Boeing Model 747 series airplanes. Since the introduction of the Model 747 airplane into service, five operators have reported multiple engine flameout incidents or lack of response to throttle movement due to engine icing. The latest incident which occurred on April 3, 1982, involved flameout of all four engines. Following this incident, Boeing issued an Operations Manual Bulletin, OMB 82-2, dated April 31, 1982; and General Electric issued Operations Engineering Bulletin No. 507, dated May 10, 1982. These bulletins re-emphasized the importance of adhering to the engine anti-ice procedures and operational requirements published in the FAA approved Airplane Flight Manual and the specific Airlines Operations Manuals. This action was only considered an interim solution until a more comprehensive solution, based on the understanding of the lack of power and/or flameout, could be developed.

A review of conditions at the time of these incidents shows that each occurred during idle descent from a cruising altitude and penetrating icing conditions with engines at idle power. In certain cases, significant engine damage occurred, requiring engien replacement. Investigation of the reported incidents by the engine and airframe manufacturers has revealed that the cause of engine lack of response to throttle movement and/or flameout was ice accumulation on unheated engine internal aerodynamic surfaces while operating at low N_1 rotor speed. Ice protection for the Pratt & Whitney JT9D, General Electric CF6 and Rolls Royce RB211 engines is provided as follows:

1. Pratt and Whitney JT9D engines are certified with the engine core inlet guide vanes and nacelle (inlet cowl) anti-icing system.

2. General Electric CF6 engines are certified with the nacelle (inlet cowl) anti-icing system only.

3. Rolls Royce RB211-524B2/C2 engines are certified with the nacelle (inlet cowl and spinner) anti-icing system while RB211-524D4 is certified with inlet cowl anti-ice system only.

Additional protection of unheated engine surfaces is provided by heat-of-compression through the engine compressors by maintaining higher-than-idle engine rpm's. Therefore, at low idle power during icing conditions, accumulation of ice on engine aerodynamic surfaces may occur. The buildup of ice causes aerodynamic instability of the engine which may result in surging of compressors and shedding of ice from the surfaces causing engine damage. Once the ice accumulation has occurred, advancing throttles to clear the engines aggravates the situation by dislodging more ice which blocks the airflow passages to the compressors causing complete compressor stall and engine flameout or requires a precautionary engine shutdown.

To provide thermal anti-icing protection during icing conditions, the AFM Normal Procedures Section instructs the flight crew to operate the engines at a minimum of 45% N_1 rpm below 10,000 feet and 50% N_1 above 10,000 feet altitude. In spite of the AFM procedures, experience has shown that procedural requirements for operations in icing conditions have not provided adequate protection. Therefore, to

protect engines from ice buildup and thereby prevent multiple engine flameout on the Model 747 series airplanes, the FAA is proposing an Airworthiness Directive (AD) to require an engine anti-ice system operating limitation in the FAA approved Airplane Flight Manual, and installation of an indicating system to warn the flight crew when any engine is being operated below the minimum safe rpm with the engine or nacelle anti-ice system "ON."

After a careful review of the proposed Airworthiness Directive (AD) it has been estimated that a total of 160 airplanes will be affected by this AD, it will take less than 100 man hours per airplane to accomplish the proposed modification and AFM revisions, and the average labor cost will be $35 per man hour. Necessary modification components are estimated at less than $5,500 per airplane. Based on these estiamtes, the total cost impact of this AD will be $9,000 per airplane for a total cost of $1,440,000 to operators of U.S. registered airplanes. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Boeing: Applies to Boeing Model 747 Series Airplanes certificated in all categories. To prevent engine flameout or damage due to accumulation of ice on unheated engine surfaces, accomplish the following:

A. Within 90 days from the effective date of the AD, unless already accomplished, revise the FAA approved Airplane Flight Manual CERTIFICATE LIMITATIONS SECTION by adding: *"ENGINE ANTI-ICE SYSTEM."* The use of continuous ignition is required in icing conditions.

When penetrating or operating in Icing Conditions, maintain a minimum of 50% N_1 rpm at 10,000 feet and above, and 45% N_1 rpm below 10,000 feet except as required for landing.

Nacelle anti-ice must be ON during all ground and flight operations when Icing Conditions exist or are anticipated, except during climb and cruise when the temperature is below −40°C SAT. Nacelle anti-ice must be on prior to and during descent in all icing conditions, including temperatures below −40°C SAT.

Note.—*Icing Conditions*—Icing Conditions exist when the OAT on the ground or TAT inflight is 10°C (50°F) or below and visible moisture in any form is present (such as clouds, fog with visibility of one mile or less, rain, snow, sleet, ice crystals) or standing water, slush, ice, or snow is present on the ramps, taxiways, or runways."

B. Within one year from the effective date of this AD, unless already accomplished, provide N_1 indication that will warn the flight crew that the nacelle/engine anti-icing is "ON" and N_1 is less than 45% below 10,000 feet or is less than 50% N_1 above 10,000 feet altitude.

Note.—Boeing is planning to release Service Bulletin 747-77-2060 in January 1983. This Service Bulletin will describe the installation of a Low N_1 RPM warning system.

C. Alternate means of compliance with the AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Area Aircraft Certification Office, FAA Building, Boeing Field, Seattle, Washington, 98108.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble the FAA has determined that this document involves a proposed regulation that is not major under the provisions of Executive Order 12291. It has been further determined that this proposed regulation is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption **"FOR FURTHER INFORMATION CONTACT."** In addition, it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since it involves few, if any, small entities.

Issued in Seattle, Washington on September 20, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-26857 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-17]

Airworthiness Directives; Detroit Diesel Allison, Model 250-C20, -C20B, -C20C(T63-A-720), -B17, -B17B, and -B17C Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) superseding AD 77-18-03. The new AD requires inspecting and replacing slotted third stage turbine wheels installed in Detroit Diesel Allison (DDA) Model 250-C20, -C20B, -C20C(T63-A-720), -B17, -B17BN, and -B17C engines and restricts the N1 and N2 operating ranges. The proposed Ad is needed to prevent possible partial blade and/or shroud separation of slotted third stage turbine wheels.

DATES: Comments must be received on or before October 30, 1982.

ADDRESSES: Send comments on the proposed AD in duplicate to: Federal Aviation Administration, Office of Regional Counsel, Attn: Rules Docket No. 82-ANE-17, 12 New England Executive Park, Burlington, Massachusetts 01803.

The applicable service bulletins may be obtained from: Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206.

A copy of the service bulletin[1] is contained in the Rules Docket at the above FAA address:

FOR FURTHER INFORMATION CONTACT: Mr. Royace Prather, Chicago Aircraft Certification Office, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7132.

SUPPLEMENTARY INFORMATION: The FAA has determined that slotted third stage turbine wheels, whether full or center slot, crimped or uncrimped, have encountered partial blade and/or shroud separation before reaching their scheduled life limit of 4,550 operating hours. This partial blade and/or shroud separation can result in loss of engine power. Detroit Diesel Allison (DDA) issued Commercial Engine Alert Bulletin CEB-A-1174/1146 on April 20, 1981, which requires inspecting and replacing slotted third stage turbine wheels per a phase-down schedule. Additionally, CEB-A-1174/1146 requires that all slotted third stage wheels not be operated between 90 percent and 98 percent N2 (including autorotation and flight idle) except during transients, while maintaining safe flight practices, and restricts engine N1 speeds during ground operation. Compliance to date with the N1/N2 operating restrictions, reduced life limits and required inspections has significantly reduced the occurrence of partial blade and/or shroud separations. However, an AD is being proposed to require mandatory compliance with CEB-A-1174/1146 to preclude the possibility of engine power loss resulting from operating slotted third stage turbine wheels to their life limit and to preclude operations in the restricted N1/N2 ranges.

[1] Bulletin filed as part of original document.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire.

Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in duplicate to the New England Regional Office address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD will be filed in the Rules Docket.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Safety.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Detroit Diesel Allison: Applies to all Model 250–C20, –C20B, –C20C(T63–A–720), B17,–B17B, and –B17C engines equipped with the following slotted third stage turbine wheels:

Part No.	Type of shroud
6887113	Full slot.
6888633	Full slot.
6896863	Crimped full slot.
6898551	Center slot.
6898567	Center slot.
6898733	Center slot.
6898743	Center slot.
6898753	Center slot.
6898763	Center slot.
6898823	Crimped full slot.
6899364	Crimped full slot.
6899406	Crimped Center slot.
6899415	Crimped Center slot.
6899416	Crimped Center slot.
6899417	Crimped Center slot.
6899418	Crimped Center slot.
6899419	Crimped center slot.

Accomplish the following to prevent possible engine power loss resulting from partial blade and/or shroud separation of slotted third stage turbine wheels:

1. Compliance required, as indicated, unless already accomplished:

a. Remove, inspect, reintroduce into service where applicable, and ultimately retire affected turbine wheels in compliance with the schedule and instructions provided in Detroit Diesel Allison Commercial Engine Alert Bulletin CEB–A–1174/1146, Revision 2 dated September 15, 1982, or later FAA approved revisions.

2. Compliance required within 60 days after the effective date of this AD, unless already accomplished:

a. Placards, markings, or flight manual changes shall be provided to flight crews to avoid sustained operation of all affected engines between 90 and 98 percent N2, except during transients, while maintaining safe flight practices. This restriction also applies to autorotation practice and engine idle during engine-out simulation on multiengine aircraft.

b. During all ground operation of affected turbine wheels installed in 250–C20, –C20B, –C20C(T63–A–720) engines, the engine N1 speed must be maintained at ground idle, except during transient operation, when performing required operational checks, or in high or gusty wind conditions, or where safety would be adversely affected. Placards, markings, or flight manual changes shall be used to advise flight crews of the ground operating restriction.

c. During all ground operation of affected turbine wheels installed in 250–B17, –B17B, –B17C engines, the engine N2 speed must be maintained below 90 percent N2 r.p.m., except during transient operation, when performing required operational checks, or in high or gusty wind conditions, or where safety would be adversely affected. Placards, markings, or flight manual changes shall be used to advise flight crews of the ground operating restriction.

Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA, Central Region. The manufacturer's specifications and procedures identified and described in this directive are available upon request to Detroit Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206. These documents may also be examined at the New England Regional Office, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD is maintained by the FAA at the New England Regional Office.

This proposed AD will supersede Amendment 39–3011, 42 FR 43969, AD 77–18–03.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034: February 26, 1979). It is certified that the final rule will not, at promulgation, have a significant economic impact on a substantial number of small entities because the cost of the action is less than $5,000 per engine which is nominal compared to the overall cost of the aircraft involved or the cost of rebuilding the entire engine if the correction is not made in time.

A draft regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to: FAA, Office of Regional Counsel, Attn: Rules Docket No. 82–ANE–17, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts on September 20, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–26858 Filed 9–29–82; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

Benchmark Survey of U.S. Direct Investment Abroad—1982

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Proposed rule.

SUMMARY: Written public comments are solicited on the following proposed rule change which provides for the conduct of a statistical survey, the BE–10, Benchmark Survey of U.S. Direct Investment Abroad—1982, as required by the International Investment Survey Act of 1976.

DATE: Written comments must be received by BEA on or before November 29, 1982.

ADDRESS: Written comments should be addressed to the U.S. Department of Commerce Bureau of Economic Analysis, International Investment Division (BE–50), Washington, D.C. 20230. All comments in response to this notice will be available for public inspection from 8:00 to 4:00 p.m. in room 608, 1401 K Street NW., Washington, D.C.

Draft report forms for carrying out the survey have been prepared and are available from BEA. All requests for copies of the draft forms must be in writing to the above address; telephone requests will not be accepted.

FOR FURTHER INFORMATION CONTACT: George R. Kruer, Chief, International Investment Division, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230, (202) 523–0657. (Do not call to request draft forms; such requests must be in writing as prescribed above.)

SUPPLEMENTARY INFORMATION: The International Investment Survey Act of 1976, 22 U.S.C. 3101–3108, requires that a benchmark survey of U.S. direct investment abroad be conducted

covering 1982. The last such survey covered 1977.

The draft report forms are similar in content to those utilized for the 1977 BE–10 survey, although a sizable number of items have been dropped and a number of items have been added. The major changes are: (1) The threshold reporting level for individual foreign affiliates is being increased to $3,000,000 from the $500,000 level used in 1977. This will significantly reduce the reporting burden for respondents. (2) In the 1977 survey, a BE–10B BANK was not required for indirectly owned foreign bank affiliates. Under the rules as proposed for the 1982 survey, a BE–10B BANK report will be required for foreign bank affiliates that are more than 50 percent indirectly owned. (3) Reports may be made for a business enterprise's fiscal year rather than for a calendar year. (4) The list of industry codes has been expanded slightly to include more codes for service industries.

The change in the definition of "U.S. Reporter" is for clarification purposes only and is not intended to change the scope of the definition.

The Bureau of Economic Analysis has determined that these proposed rule changes are not "major" under Executive Order 12291. The public use burden will be undertaken within the Department of Commerce proposed FY 1983 Information Collection Budget ceiling.

Regulatory Flexibility Act—The provisions of the Regulatory Flexibility Act relating to preparation of an initial regulatory flexibility analysis are not applicable to these proposed rule changes because they will not have a significant economic impact on a substantial number of small entities. The increase in the exemption level will eliminate reporting for most small businesses.

Accordingly, the General Counsel, Department of Commerce, has certified under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these proposed rule changes will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 15 CFR Part 806

Economic statistics, Foreign investment in the United States, Penalties, Reporting requirements, United States investments abroad.

Part 806 is therefore modified as set forth below.

George Jaszi,

Director, Bureau of Economic Analysis.

15 CFR Part 806 is amended as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101–3108, and Executive Order 11961.

In § 806.14(a), the present paragraph (2) is revised to read as follows:

§ 806.14 U.S Direct Investment Abroad.

(a) *Specific definitions.* * * *

(2) "U.S. Reporter" means the U.S. person which has direct investment in a foreign business enterprise, including a branch. If the U.S. person is an incorporated business enterprise, the U.S. Reporter is the fully consolidated U.S. domestic enterprise consisting of (i) the U.S. corporation whose voting securities are not owned more than 50 percent by another U.S. corporation, and (ii) proceeding down each ownership chain from that U.S. corporation, any U.S. corporation (including Domestic International Sales Corporations) whose voting securities are more than 50 percent owned by the U.S. corporation above it.

* * * * *

2. Section 806.16 is revised to read as follows:

§ 806.16 Rules and regulations for BE–10, Benchmark Survey of U.S. Direct Investment Abroad—1982.

A BE–10, Benchmark Survey of U.S. Direct Investment Abroad, will be conducted covering 1982. All legal authorities, provisions, definitions, and requirements contained in §§ 806.1 through 806.13, 806.14(a), (b), (c), (d) and (g)(2) are applicable to this Survey. Specific additional rules and regulations for the BE–10 Survey concerning who must report and forms required are given below.

(a) *Basic requirement*—BE–10 report is required from every U.S. person having a foreign affiliate—that is, every U.S. person having direct or indirect ownership or control of at least 10 per centum of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise—at any time during the year ending December 31, 1982, or, if the U.S. person is a business enterprise, at any time during its 1982 fiscal year. A business enterprise's 1982 fiscal year is the enterprise's financial reporting year that has an ending date in calendar year 1982. For a person that does not have a financial reporting year, or does not have a financial reporting year ending in calendar year 1982, its 1982 fiscal year is deemed to be the same as calendar year 1982. Reports are required even though the foreign business enterprise may have been established, acquired, seized, liquidated, sold, expropriated, or inactivated during the reporting period.

(b) *Form BE–10A (Report for U.S. Reporter).*—(1) *Filing*—A completed Form BE–10A is required from each U.S. Reporter (see definition). Exception: When a U.S. business enterprise owns a foreign affiliate and the U.S. business enterpirse is owned more than 50 per centum by a U.S. individual, the report should be filed by, and Form BE–10A should be for, the business enterprise rather than the individual. Direct transactions or positions, if any, with the foreign affiliate by the individual must be included in the U.S. business enterprise's report.

(2) *Partial exemption when all foreign affiliates are exempt*—When the U.S. Reporter has foreign affiliates, but all are exempt from filing Form BE–10B, then only item 1 of Form BE–10A, and Form BE–10A Supplement, which lists exempt foreign affiliates, must be completed and filed.

(3) *Partial exemption based on type of reporter*—U.S. Reporters which are religious, charitable, or other nonprofit organziations and individuals who directly own a foreign affiliate, are required to file a Form BE–10A, but are exempt from completing Part II, Financial and Operating Data of U.S. Reporter, of the form.

(c) *Form BE–10B (Report for Foreign Affiliate).*

(1) *Filing*—A U.S. person is required to file one Form BE–10B for each foreign affiliate which is not exempt pursuant to paragraph (c)(2) of this section. (Under those limited conditions where foreign affiliates may be consolidated, the consolidated entity is considered to be one foreign affiliate.) To determine whether, for purposes of reporting, a given foreign business enterprise is considered as its foreign affiliate, a U.S. person should sum its percentages of voting ownership through all limes, or chains of ownership, direct and indirect. If the resulting sum is at least 10 percent, then the enterprise is the U.S. person's foreign affiliate and, unless otherwise exempt, must be reported. In the case of a line of indirect ownership, the U.S. person's percentage ownership in a given foreign business enterprise should be computed as its direct ownership percentage in the first foreign business enterprise in the chain, multiplied by that first enterprise's direct ownership percentage in the second enterprise in the chain, multiplied by the second enterprise's direct ownership percentage in the third enterprise in the chain, multiplied by the corresponding percentages for all other intervening enterprises in the chain, multiplied by the last intervening enterprise's direct ownership percentage in the given

foreign business enterprise. To illustrate, suppose that the U.S. person owned 50 percent of foreign business enterprise A directly, and that A owned 75 percent of foreign business enterprise B that, in turn, owned 80 percent of foreign business enterprise C. Then the U.S. person's percentage of indirect ownership of B would be 37.5 percent (the product of the first two percentages), its indirect ownership of C would be 30 percent (the product of all three percentages), and B and C (as well as A) would be considered the U.S. person's foreign affiliates.

(2)(i) *Total exemption*—A Form BE-10B need not be filed if the foreign affiliate's total assets, sales or gross operating revenues excluding sales taxes, and net income after income taxes, are each (all three are) less than $3,000,000.00 (positive or negative), and the foreign affiliate does not own another foreign affiliate for which a Form BE-10B must be filed. If the latter condition is not met, then Form BE-10B must be filed for the foreign affiliate holding the equity interest regardless of the value of its assets, sales or income. That is, all affiliates upward in a chain of ownership must be reported.

(ii) An affiliate's receivables due from its parent may not be netted against total assets when applying the exemption criteria.

(3) *Number of Form's BE-10B required*—If two or more U.S. Reporters jointly own a foreign affiliate, directly or indirectly, each U.S. Reporter must submit a Form BE-10B for the affiliate. The U.S. Reporter having the highest percentage ownership (direct or indirect combined) in the foreign affiliate must file a Form BE-10B in which only Part I, and Part III, if there is direct ownership, positions, or transactions, have been completed. If the percentage of ownership is the same, the U.S. Reporters must decide among themselves which one will submit the complete report.

(4) *Foreign affiliate consolidation*—In cases where the recordkeeping system of the foreign affiliates makes it impossible or extremely difficult to file a separate report for each foreign affiliate, a U.S. Reporter may consolidate affiliates in the same country when the following conditions apply:

(i) The affiliates are in the same BEA 3-digit industry, as defined in the *Direct Investment Industry and Foreign Trade Classifications Booklet;* or

(ii) The affiliates are integral parts of the same business operation. For example, if German affiliate A manufactures tires and a majority of its sales are to German affiliate B which produces autos, then affiliates A and B may be consolidated.

In all other situations, the U.S. Reporter should call this office at (202) 523-0632 for guidance. Under no circumstances may a U.S. Reporter consolidate foreign affiliates in different countries.

(d) *Relationship between Forms BE-10A and BE-10B.* The term "U.S. Reporter" as defined means the fully consolidated U.S. domestic enterprise; therefore, on Form BE-10B, when data on trade and financial relationships between the U.S. Reporter and the foreign affiliate are requested, the data must reflect the foreign affiliate's relationship with the entire U.S. enterprise, not merely with one division or part.

(e) *Specialized report forms for banks*—Specialized report forms have been adopted for banks, that is, for business enterprises over 50 percent of whose total revenues are generated by activities classified in BEA industry code 600, because much of the information on banks foreign activities which is requested on the standard forms is already being reported to other agencies of the Federal Government. The specialized report forms are designed to yield only such additional information as is deemed necessary. Use of specialized Forms BE-10A BANK and BE-10B BANK rather than the standard forms is at the discretion of BEA; in situations where their possible use is not clear-cut, permission must be secured from BEA in advance of filing.

(1) A specialized report form—BE-10A BANK—has been developed for reporting by a U.S. Reporter which is a bank or a bank holding company. It is not to be used by a U.S. Reporter which may technically be classified as a bank holding company because of an interest in a banking activity, but which has over 50 percent of its revenues generated by non-bank activities (Activities of subsidiaries which may not be banks but which provide support to the parent company, such as real estate subsidiaries set up to hold the office building occupied by the parent company, are considered bank activities.)

(2) A specialized report form—BE-10B BANK—has also been developed for reporting of a foreign affiliate which is a bank and in which the U.S. Reporter holds a direct ownership interest, or an indirect interest of more than 50.0 percent. Incorporated foreign bank affiliates in which the U.S. Reporter holds a direct equity interest, or an indirect equity interest of more than 50.0 percent, must be separately reported. All branch banks of the U.S. Reporter in a given foreign country must be consolidated on one Form BE-10B Bank even if it is the Reporter's practice to report data for these branches separately on Federal Reserve Form FR105f or on Comptroller of the Currency Form CC7610-09.

(3) A foreign bank affiliate of the U.S. Reporter in which the U.S. Reporter holds an indirect ownership interest of 50.0 percent or less may be treated as an exempt foreign affiliate and need not be separately reported on Form BE-10B Bank, but must be listed on Form BE-10A Supplement.

(4) A U.S. reporter which is a bank, but which has a nonbank foreign affiliate, must file a Form BE-10A Bank for itself and a standard Form BE-10B for the nonbank foreign affiliate.

(5) A U.S. reporter which is not a bank, but which has a bank foreign affiliate, must file a standard Form BE-10A Bank for itself and a Form BE-10B Bank for the bank foreign affiliate.

(6) Banks located on U.S. military bases abroad and servicing base personnel are not considered "foreign" and a Form BE-10B Bank should *not* be filed for them.

(7) The specialized report forms, where their use is permitted, stand in place of the standard forms, and the regulations and instructions should be so construed.

(f) *Due date*—BE-10 reports containing both Form BE-10A and Form(s) BE-10B are due on the following dates:

May 31, 1983—U.S. Reporter required to file less than 20 Forms BE-10B
June 30, 1983—U.S. Reporter required to file from 20 to 99 Forms BE-10B
July 31, 1983—U.S. Reporter required to file 100 or more Forms BE-10B

(g) Inquiries concerning the BE-10 Survey should be directed to: U.S. Department of Commerce, Bureau of Economic Analysis (BE-50,SSB), Washington, D.C. 20230, phone 202-523-0632.

[FR Doc. 82-27020 Filed 9-29-82; 8:45 am]
BILLING CODE 3510-06-M

DEPARTMENT OF STATE

22 CFR Part 51

[Docket No. 178]

Validity Period of Passports; Passport Fees; Passport Execution Fee

AGENCY: State Department.

ACTION: Proposed rule.

SUMMARY: The Department proposes to double the validity period of passports to 10 years for adults 18 years and over, and to set the validity period at 5 years

for minors under 18 years. The Department further proposes to set at $35.00 the fee collected for issuance of passports having a validity or potential validity period of 10 years and to set at $20.00 the fee for passports having a validity or potential validity period of 5 years. These amendments, which represent only the second increase in passport fees since 1932, are necessary in order to comply with the cost recovery requirements of 31 U.S.C. 483a and to implement the provisions of Pub. L. 97–241 of 1982 which amend Sections 214 and 217a of Title 22, United States Code. The Department also proposes to increase the fee for the execution of a passport application and the related fee for the examination of a passport application executed before a foreign official to $7.00. Until adopted in final form, current regulations remain in effect.

DATE: Comments must be received by November 29, 1982.

ADDRESS: Send comments to the Office of Citizenship Appeals and Legal Assistance, Passport Services, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520, ATTN: PPT/C, room 5813.

FOR FURTHER INFORMATION CONTACT: William B. Wharton on (202) 632–0801.

SUPPLEMENTARY INFORMATION: Currently, all passports issued are valid for a period of 5 years unless limited by the Secretary of State to a shorter period of time. As amended by Pub. L. 97–241, 22 U.S.C. 217a now provides that passports issued subsequent to the effective date of the amendment shall be valid for a period of 10 years from the date of issuance except where limited by the Secretary to a shorter period. Such limitations may be made in an individual case, or on a general basis pursuant to regulation. As amended, the regulations would provide that all regular passports issued to persons 18 years old and above would be valid or potentially valid for 10 years. Those passports issued to persons under 18 years of age would be valid or potentially valid for 5 years. Diplomatic, Official and other passports for which no fee is collected also would be valid or potentially valid for 5 years.

Passports issued to persons under the age of 18 will be valid for a period of 5 years. A minor does not need to participate in his own passport application until the age of 13 years, and does not attain full legal competence until the age of 18 years. By statute (8 U.S.C. 1101(a) (30)) a passport attests not only to the bearer's nationality but also to his identity. Persons under the age of 18 years go through very rapid changes in physical appearance. Setting the validity period of 5 years for minors will ensure that the passport serves the purpose for which it was designed. It will also ensure the continued orderly administration of the regulations governing the issuance and denial of passports to minor children.

Public Law 97–241 also amends the provisions of 22 U.S.C. 214 by delegating to the Secretary the authority to establish by regulation the fee which must be collected for the issuance of a passport. That fee has remained unchanged since 1968, at which time it was established at $10.00. The purpose of the passport fee is to recover the costs of issuance of passports to United States citizens and consular services rendered to them abroad. The present passport fee does not meet those costs. Therefore, the Secretary has determined that it is necessary to increase the fee of a passport issued for 5 years to $20.00, and to establish the fee for a passport issued for 10 years at $35.00.

The execution fee is designed to cover the cost of the execution of the passport application by the personal appearance of the applicant. The Secretary has determined that it is necessary to increase this fee from $5.00 to $7.00. The associated fee for examination of a passport application executed before a foreign official will also be raised from $5.00 to $7.00.

In accordance with 5 U.S.C. 605(b), the Secretary of State certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 22 CFR Part 51

Administrative practice and procedure, Passports and visas.

PART 51—PASSPORTS

Accordingly, it is proposed to amend Title 22, Code of Federal Regulations, Part 51, as set forth below:

1. Section 51.4 of Part 51, Chapter I is amended by revising paragraphs (b) and (e) and by adding paragraph (f) to read as follows:

§ 51.4 Validity of passports.

* * * * *

(b) *Period of validity of a regular passport.* A regular passport issued on or after —— to an applicant 18 years of age or older is valid for 10 years from date of issue unless limited by the Secretary to a shorter period. A regular passport issued on or after —— to an applicant under the age of 18 years is valid for 5 years from date of issue unless limited by the Secretary to a shorter period. An outstanding passport issued before —— remains valid for 5 years from date of issue unless limited by the Secretary to a shorter period.

* * * * *

(e) *Period of a Regular Passport issued for no fee:* A regular passport for which payment of the fee has been excused is valid for a period of 5 years from the date of issue unless limited by the Secretary to a shorter period.

(f) *Limitation and extension of validity.* The validity period period of any passport may be limited by the Secretary to less than the normal validity period. Applications for extension of passports limited to less than the normal full validity period must be made in writing and must be submitted, with the passport, to a passport issuing Office. In no event may a passport be extended beyond the normal periods of validity prescribed for such passport by paragraphs (b) through (e) of this section.

2. Section 51.61 of Part 51, Chapter I is revised to read as follows:

§ 51.61 Statutory fees.

(a) *Passport fee.* The fee for a U.S. passport is (1) $35.00 when the passport issued will be valid or potentially valid for a period of 10 years from date of issue; or (2) $20.00 when the passport issued will be valid or potentially valid for a period of 5 years from date of issue; and (3) the passport fee shall be paid by all applicants except as provided by § 51.63(a).

(b) *Execution fee.* Except as provided in § 51.63(b), the fee for execution of an application for a U.S. passport is $7.00, which shall be remitted to the U.S. Treasury when an application is executed before a Federal official, but which may be collected and retained by any State official before whom an application is executed. The execution fee shall be paid only when an application must be executed under oath or affirmation as prescribed by § 51.21(a).

(Sec. 1, 44 Stat. 887; Sec. 1, 41 Stat. 750; Sec. 2, 44 Stat. 887; Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 214, 217a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966–70 Comp. p. 507)

Dated: September 10, 1982.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 82–26901 Filed 9–29–82; 8:45 am]

BILLING CODE 4710–06–M

22 CFR Part 22

[Docket No. SD-179]

Passport Fees

AGENCY: State Department.

ACTION: Proposed rule.

SUMMARY: The Department proposes amending its regulations to set at $35.00 the fee collected for issuance of passports having a validity or potential validity period of 10 years and to increase the fee of passports having a validity or potential validity period of 5 years to $20.00. These amendments are necessary in order to implement the provision of Pub. L. 97-241 of 1982 which amends Section 214 of Title 22, United States Code. The Department further proposes to increase the fee collected for execution of a passport application and the associated fee for examination of a passport application executed before a foreign official to $7.00. Until adopted in final form, current regulations remain in effect.

In accordance with 5 U.S.C. 605(b), the Secretary of State certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The rule is not a major rule within the meaning of Section 1(b) of E.O. 12291.

DATES: Comments must be received by November 29, 1982.

ADDRESS: Send comments to the Office of Citizenship Appeals and Legal Assistance, Passport Services, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520, ATTN: PPT/C room 5813.

FOR FURTHER INFORMATION CONTACT: William B. Wharton on (202) 632-0801.

SUPPLEMENTARY INFORMATION: Public Law 97-241 amends the provisions of 22 U.S.C. 214 by delegating to the Secretary the authority to establish by regulation the fee which must be collected for the issuance of a passport. That fee has remained unchanged since 1968, at which time it was established at $10.00. The purpose of the passport fee is to recover the costs of issuance of passports to United States citizens and consular services rendered to them abroad. The present passport fee does not meet those costs. Therefore, the Secretary has determined that it is necessary to increase the fee of a passport issued for 5 years to $20.00, and to establish the fee for a passport issued for 10 years at $35.00.

The execution fee is designed to cover the cost of the personal appearance of the applicant to execute the passport application. The Secretary has determined that it is necessary to increase this fee, and the related fee for examination of a passport application executed before a foreign official, from $5.00 to $7.00.

In accordance with 5 U.S.C. 605(b), the Secretary of State certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The rule is not a major rule within the meaning of Section 1(b) of E.O. 12291.

List of Subjects in 22 CFR Part 22

Foreign service.

PART 22— SCHEDULE OF FEES FOR CONSULAR SERVICES— DEPARTMENT OF STATE AND FOREIGN SERVICE

Accordingly, it is proposed to amend Title 22, Code of Federal Regulations, Part 22, as set forth below:

Section 22.1 of Part 22, Chapter I is amended by revising 1–4 to read as follows:

§22.1 Schedule of fees.

Passport and citizenship services Item No	Fee
1. Execution of application for passport	$7.00
2. Examination of passport application executed before a foreign official	7.00
3. Issuance of 10 year validity passport (22 U.S.C. 214)	35.00
4. Issuance of 5 year validity passport (22 U.S.C. 214)	20.00
* * * * *	

(Sec. 1, 44 Stat. 887; Sec. 1, 41 Stat. 750; Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 214, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966–70 Comp., p. 507)

Dated: September 10, 1982.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 82-26902 Filed 9-29-82; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 1

[FHWA Docket No. 82-13]

Limitation on Federal Participation— Attorney Fees Awarded Against a State

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend regulations concerning limitations on the participation of Federal funds in costs incurred by States to provide that Federal-aid highway funds may not participate in payments of attorney fees paid by a State to an opposing party in litigation. This amendment would clarify FHWA policy with regard to Federal participation in attorney fees and would implement current statutory and administrative restrictions on such participation.

DATE: Comments must be received on or before November 29, 1982.

ADDRESS: Comments should be sent to FHWA Docket No. 82-13, Federal Highway Administration, HCC-10, Room 4205, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Reid Alsop, Office of the Chief Counsel, 202-426-0800, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Current FHWA regulations at § 710.304(b)(3) provide that FHWA may not participate in "a property owner's attorney fees * * * or similar costs which are paid by the SHD [State Highway Department] in connection with acquisition of rights-of-way" except in the limited situations set forth in section 304 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4654). This prohibition applies "whether or not costs are included in court judgments or awarded as court costs in litigated cases." This reflects both a longstanding FHWA policy against participating in attorney fees that may be paid by a State to an opposing party in litigation, and the requirements of Office of Management and Budget (OMB) Circular A-87.

The absence of any other FHWA regulation that discusses FHWA participation in attorney fees paid to an opposing party is due to the lack, until recently, of any claims or requests for participation in such costs.

The proposed amendment would prohibit Federal-aid highway funds from participating in any payment or award of attorney fees to a party in litigation against a State, except as provided in § 710.304(b)(3). This would extend the prohibition concerning payments of attorney fees in eminent domain proceedings, contained in § 710.304(b)(3), to all State litigation.

including cases where a State and the FHWA are co-defendants, and would eliminate any ambiguity that might exist concerning FHWA participation in such costs. This extension would clarify and promulgate current FHWA policy. It is considered necessary because there is some indication that increasingly States are being asked to pay for an opposing party's attorney fees.

The proposed rule is considered to be a reasonable limitation on the expenditure of Federal-aid highway funds and is similar to numerous other such limitations contained in FHWA regulations. Such limitations have been upheld by the courts on several occasions, most notably in "People of the State of California v. U.S.," 547 F. 2d 1388, 1390 (9th Cir. 1977). See Also "People of the State of California v. U.S.," 551 F. 2d 843 (Ct. Cl. 1977); "State of Nebraska Department of Roads v. Tiemann," 510 F. 2d 446 (8th Cir. 1975); "Michigan State Highway Commission v. Coleman," Civ. No. 76–581 (W.D. Mich. 1978); "Commonwealth v. Connor," 248 F. Supp. 656 (D. Mass.) aff'd 366 F. 2d 778 (1st Cir. 1966); and "Louisiana Department of Highways v. U.S.," 604 F. 2d 1339, (Ct. Cl. 1979).

The award of attorney fees against the Federal government is governed by 28 U.S.C. 2412. Prior to the amendment of § 2412, by the Equal Access to Justice Act (Title II of Pub. L. 96–481), it provided that attorney fees could not be awarded against the Federal government unless expressly provided by statute. Section 2412, as amended, now provides for the recovery of attorney fees against the Federal government in proceedings "pending on or commenced on or after October 1, 1981".

However, 28 U.S.C. 2412 clearly does not require that Federal grant statutes, such as those governing the Federal-aid highway program in 23 U.S.C., be revised or interpreted to provide that a State's costs attributable to an opposing party's attorney fees be included as part of a project's cost for purposes of Federal participation.

Congress has specifically addressed the question of the liability of the United States for attorney fees in § 2412. As amended it appears that its provisions can render the FHWA and other Federal agencies directly liable for attorney fees after October 1, 1981.

Since Congress had enacted specific legislation governing the Federal government's liability for attorney fees, we do not believe that the longstanding Federal and FHWA policy against including an opposing party's attorney fees in project costs should be reversed. Such a reversal would allow Federal participation in such fees indirectly, as a project cost, conflict with policies designed to insure cost effective and efficient project management, and intrude in an area in which Congress has already acted.

Moreover, OMB Circular A–87, which establishes principles and standards applicable to Federal grants and contracts with State and local governments, provides, in paragraph B16 of Attachment B, that legal expenses for the prosecution of claims against the Federal Government are not allowable grant costs, and hence are not eligible for Federal participation. The proposed amendment would implement this provision of the OMB Circular.

Under certain circumstances FHWA may participate in attorney fees paid by a State to defend itself. These are set forth in 23 CFR 140, Subpart E, and 23 CFR 712.408 and are not affected by this proposed change.

The FHWA has determined that this document contains neither a major proposal under Executive Order 12291 nor a significant proposal under DOT regulatory procedures. The economic impacts of this action would be minimal. Although certain project related costs incurred by State highway departments would not be eligible for Federal participation, the amount of grant money available to the States would not be diminished in any way. Accordingly, under the criteria of the Regulatory Flexibility Act, it is certified that this action, if promulgated, will not have a significant economic impact on a substantial number of small entities. For the foregoing reasons, a full regulatory evaluation of this proposal is not required.

PART 1—GENERAL

In consideration of the foregoing, it is proposed that 23 CFR 1.9(a) be amended by adding a third sentence at the end thereof to read as follows:

§ 1.9 Limitation on Federal participation.

(a) * * * Except as provided in § 710.304(b)(3) of this chapter, Federal-aid funds shall not participate in any award or payment of attorney fees paid by a State to an opposing party in litigation.

* * * * *

(23 U.S.C. 101, 315; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

List of Subjects in 23 CFR Part 1

Administrative practice and procedure, Attorney fees, Grant programs—transportation, Highway and roads.

Issued on: September 22, 1982.

Ray Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 82–27021 Filed 9–29–82; 8:45 am]

BILLING CODE 4910–22–M

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1656 and 1660

Selective Service Regulations; Alternative Service

AGENCY: Selective Service System.

ACTION: Proposed rule.

SUMMARY: Procedures to implement the program of alternative service under section 6(j) of the Military Selective Service Act (50 U.S.C. App. 456(j)) are revised to assure greater fairness and efficiency in its administration.

DATES: Comment Date: Written comments received on or before October 30, 1982 will be considered. Effective date: Subject to the comments received the amendments are proposed to become effective upon publication in the **Federal Register** of a final rule not earlier than November 1, 1982.

ADDRESS: Written comment to: Selective Service System, Attn: General Counsel, Washington, D.C. 20435.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, D.C. 20435 Phone: (202) 724–1167.

SUPPLEMENTARY INFORMATION: These amendments to Selective Service Regulations are published pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)). These Regulations implement section 6(j) of the Military Selective Service Act (50 U.S.C. App. 456(j)). This proposal replaces the proposal appearing at 47 FR 24599 (June 7, 1982).

Various sections of 32 CFR Chapter XVI will be revised in separate rule making to bring them in consonance with this proposed rule.

The Proposed Concept of Alternative Service (46 FR 6998, January 22, 1981) has no stature and should not be considered in interpreting this proposal.

Interested persons are invited to submit written comments on the proposed regulations. All written comments filed in response to this notice of proposed rulemaking will be

available for public inspection in the office of the General Counsel from 9:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), I have determined that these regulations do not have significant economic impact on a substantial number of small entities.

List of Subjects in 32 CFR Part 1656

Armed Forces, Draft, Conscientious objection.

Dated: September 27, 1982.

Thomas K. Turnage,

Director.

PART 1660 [REMOVED]

32 CFR Part 1660, Alternate Service, is removed.

32 CFR Part 1656 is added to read as follows:

PART 1656—ALTERNATIVE SERVICE

Sec.

1656.1 Purpose; definitions.
1656.2 Order to perform alternative service.
1656.3 Responsibility for administration.
1656.4 Alternative Service Office: Jurisdiction and authority.
1656.5 Employment development
1656.6 Prohibited job assignments.
1656.7 Review of job assignments—Civilian Review Board.
1656.8 Employer responsibilities.
1656.9 Employment agreements.
1656.10 Alternative service worker's responsibilities.
1656.11 Job placement.
1656.12 Job performance standards and sanctions.
1656.13 Reassignment.
1656.14 Postponement of reporting date.
1656.15 Suspension of order to perform alternative service because of hardship to dependents.
1656.16 Early release—grounds and procedures.
1656.17 Administrative complaint process.
1656.18 Computation of creditable time.
1656.19 Completion of alternative service.
1656.20 Expenses for emergency medical care.

Authority: Sec. 6(j) Military Selective Service Act; 50 U.S.C. Appendix 456(j).

§ 1656.1 Purpose; definitions.

(a) The provisions of this part govern the administration of registrants in Class 1–W and the Alternative Service Program.

(b) The definitions of this paragraph shall apply in the interpretation of the provisions of this part:

(1) *Alternative Service (AS).* Civilian work performed in lieu of military service by a registrant who has been classified in Class 1–W.

(2) *Alternative Service Office (ASO).* An office to administer the Alternative Service Program in a specified geographical area.

(3) *Alternative Service Office Manager (ASOM).* The head of the ASO.

(4) *Alternative Service Work.* Civilian work which the Director deems appropriate and which contributes to the maintenance of the national health, safety or interest.

(5) *Alternative Service Worker (ASW).* A registrant ordered to perform alternative service (Class 1–W).

(6) *Civilian Review Board.* A board to hear appeals by ASWs on certain job assignments and reassignments.

(7) *Creditable Time.* Time that is counted toward an ASW's fulfillment of his alternative service obligation.

(8) *Director.* The Director of Selective Service, unless used with a modifier.

(9) *Employer.* Any institution, firm, agency or corporation engaged in lawful activity in the United States, its territories or possessions or the commonwealth of Puerto Rico that has been approved by Selective Service to employ ASWs.

(10) *Job Bank.* A current inventory of alternative service job opeinings.

(11) *Job Matching.* A comparison of the ASW's work experience, education, training, special skills, and work preferences with the requirements of the positions in the job bank.

(12) *Job Placement.* Assignment of the ASW to alternative service work.

(13) *Open placement.* The assignment of ASWs without employer interview to employers who have agreed to employ all ASWs assigned to them up to an agreed number.

§ 1656.2 Order to perform alternative service.

The local board of jurisdiction shall order any registrant who has been classified in Class 1–0–Q to perform alternative service at a time and place to be specified by the Director.

§ 1656.3 Responsibility for administration.

(a) The Director in the administration of the Alternative Service Program shall establish and implement appropriate procedures to:

(1) Assure that the program complies with the Selective Service Law;

(2) Provide information to ASWs about their rights and duties;

(3) Find civilian work for ASWs;

(4) Place ASWs in jobs approved for alternative service;

(5) Monitor the work performance of ASWs placed in the program;

(6) Order reassignment and authorize job separation as necessary;

(7) Issue certificates of completion;

(8) Specify the location of Alternative Service Offices;

(9) Specify the geographical area in which the ASOs shall have jurisdiction over ASWs;

(10) Refer to Department of Justice, when appropriate, any ASW who fails to perform satisfactorily his alternative service;

(11) Perform all other functions necessary for the administration of the Alternative Service Program; and

(12) Delegate any of his authority to such office, agent or person as he may designate and provide as appropriate for the subdelegation of such authority.

(b) The region Director shall be responsible for the administration and operation of the Alternative Service Program in his Region as prescribed by the Director.

(c) The State Director shall perform duties for the administration and operation of the Alternative Service Program in his State as prescribed by the Director.

(d) The ASOM shall perform duties for the administration and operation of the Alternative Service Program as prescribed by the Director.

(1) The ASO shall be an office of record that is responsible for the administration and operation of the Alternative Service Program in its assigned geographical area of jurisdiction.

(2) The staff of each ASO shall consist of as many compensated employees as shall be authorized by the Director.

(e) The manager of an area office shall perform duties for Alternative Service as prescribed by the Director.

§ 1656.4 Alternative Service Office: Jurisdiction and authority.

(a) Jurisdiction over the ASW will be transferred from the area office immediately after his classification in Class 1–W to the ASO that administers the Alternative Service Program in the area in which he is assigned to perform alternative service.

(b) The ASO shall:

(1) Evaluate and approve jobs and employers for Alternative Service;

(2) Issue such orders as are required to schedule the ASW for job placement;

(3) Issue such orders as are required to schedule the ASW for job interviews;

(4) Order the ASW to report for alternative service work;

(5) Monitor the ASW's job performance;

(6) Issue a certificate of satisfactory completion of the ASW's Alternative Service obligation;

(7) Return the ASW to the jurisdiction of the area office from which he was directed to perform Alternative Serivce; and

(8) Perform such other actions as necessary to administer the Alternative Service Program.

§ 1656.5 Employment development.

(a) The Director will determine which civilian employment programs or activities contribute to the maintenance of the national health, safety or interest and are appropriate for Alternative Service work.

(b) The Director may establish priorities in the assignment of ASWs to types of Alternative Service work.

(c) An organization desiring to employ ASWs to perform Alternative Service is encouraged to submit a request in writing to the Director or an ASOM for approval. Such requests will be considered at any time.

(d) Selective Service shall negotiate employment agreements with the objective of obtaining an adequate number of agreements to assure the timely placement of all ASWs. Participating employers will provide prospective job listings to Selective Service.

(e) Selective Service shall also negotiate employment agreements with eligible employers wherein the employer will agree to hire a specified number of ASWs for open placement positions.

(f) An ASW may seek his own alternative service work by identifying a job with an employer he believes would be eligible for Alternative Service and by having the employer advise the ASO in writing that he desires to employ the ASW. The acceptability and priority of the job so identified will be evaluated as all others considered for ASW assignment.

§ 1656.6 Prohibited job assignments.

No ASW will be assigned to work:

(a) In such jobs as the manufacture or transportation of military ammunition, aircraft, equipment, vehicles or weapons;

(b) In an activity that is illegal under the laws of the United States or a state or a municipality at the place that it is performed;

(c) Outside of the United States, its territories or possessions.

§ 1656.7 Review of job assignments—Civilian Review Board.

Any ASW who believes that his job assignment violates the provisions of § 1656.6 of this part may appeal to an Alternative Service Civilian Review Board for the district in which his assigned work is to be performed. If the Civilian Review Board finds that the assignment violates subsection 1656.6 of this part, it shall so advise the ASO that issued the assignment order, and the ASO then shall reassign the ASW. The decision of the Civilian Review Board is final unless the Director otherwise directs. Pending disposition of his appeal by the Civilian Review Board, the ASW may continue to work or he may stop working and not earn creditable time.

§ 1656.8 Employer responsibilities.

Employers participating in the Alternative Service Program are responsible for:

(a) Complying with the employment agreement with Selective Service;

(b) Providing a clear statement of duties, responsibilities, compensation and employee benefits to the ASW;

(c) Providing full-time employment for ASWs;

(d) Providing adequate supervision of ASWs in his employ; and

(e) Providing nondiscriminatory treatment of ASWs in his employ.

§ 1656.9 Employment agreements.

(a) *Nature of Agreement.* Before any ASW is placed with an employer, Selective Service and the employer shall enter into an employment agreement that specifies their respective duties and responsibilities under the Alternative Service Program.

(b) *Restrictions on Selective Service.* The Selective Service System shall not act in any controversy involving ASW's wages, hours and working conditions except to the extent any of these subjects is specifically covered in the employment agreement between Selective Service and the employer.

(c) *Investigating and Negotiating.* Whenever there is evidence that an employer appears to be violating the employment agreement, Selective Service will investigate the matter. If the investigation produces substantial evidence of violations of the employment agreement, Selective Service may negotiate a resolution of the matter with the employer within the terms of the employment agreement.

(d) *Termination of Employment Agreement.* If a resolution of a dispute cannot be reached by negotiation within a reasonable time, the Selective Service System shall terminate the employment agreement and shall reassign the ASW.

§ 1656.10 Alternative service worker's responsibilities.

(a) A registrant classified in Class 1-W is required to comply with all orders issued under this part.

(b) A registrant classified in Class 1-W is liable to perform 24 months of creditable time toward completion of Alternative Service.

§ 1656.11 Job placement.

(a) Selective Service will maintain a job bank for the exclusive purpose of placing ASWs in alternative service jobs.

(b) Information supplied by the ASW about his skills and preferences will be considered by Selective Service in making job interview referrals and in making assignments of ASWs to jobs.

(c) When an ASW is hired, the ASO will issue a Job Placement Order specifying the employer, the time, date and place to report for his alternaitve service work.

(d) The ASO will normally place the ASW in an alternative service job within 30 days after classification in Class 1-W.

§ 1656.12 Job performance standards and sanctions.

(a) *Standard of Performance.* An ASW is responsible for adhering to the standards of conduct, attitude, appearance and performance demanded by the employer of his other employees in similar jobs. If there are no other employees, the standards shall conform to those that are reasonable and customary in a similar job.

(b) *Failure to Perform.* An ASW will be deemed to have failed to perform satisfactorily whenever:

(1) He refuses to comply with an order of the Director issued under this part;

(2) He refuses employment by an approved employer who agrees to hire him;

(3) His employer terminates the ASW's employment because his conduct, attitude, appearance or performance violates reasonable employer standards; or

(4) He quits or leaves his job without reasonable justification.

(c) *Sanctions for ASW's Failure to Perform.* (1) The sanctions for failure to meet his Alternative Service obligation are job reassignment, loss of creditable time during such period and referral to the Department of Justice for failure to comply with the Military Selective Service Act.

(2) Prior to invoking any of the sanctions discussed herein, the ASO will conduct a review as prescribed in § 1656.17 of all allegations that an ASW

has failed to perform pursuant to any of the provisions of § 1656.12(b).

§ 1656.13 Reassignment.

(a) *Grounds for reassignment.* Each of the following conditions may be the basis for job reassignments:

(1) An ASW experiences a change in his mental or physical condition which renders him unfit or unable to continue performing satisfactorily in his assigned job;

(2) An ASW's dependents incur a hardship which is not so severe as to justify a supension of the Order to Perform Alternative Service under § 1656.15;

(3) The employer ceases to operate an approved program or activity;

(4) The employer fails to comply with the terms and conditions of the employment agreement;

(5) Continual and severe differences between the employer and ASW remain unresolved; or

(6) The Director determines that reassignment is justified.

(b) *Who May Request Reassignment.* Any ASW may request reassignment to another job. An employer may request job reassignment of an ASW who is in his employ.

(c) *Method for Obtaining a Reassignment.* All requests for reassignment must be in writing with the reasons specified. The request may be filed with the ASO of jurisdiction at any time during an ASW's alternative service employment. An ASW must continue in his assigned job, if available, until the request for reassignment is approved.

(d) It is the responsibility of the ASW to notify the ASO promptly in writing of any grounds which could be a reason for his reassignment.

§ 1656.14 Postponement of reporting date.

(a) *General.* The reporting date in any of the following orders may be postponed in accord with this section.

(1) Report for Job Placement;

(2) Report for a Job Interview;

(3) Report to an Employer to Commence Employment.

(b) *Requests for Postponement.* A request for postponement of a reporting date specified in an order listed in paragraph (a) of this section must be made in writing and filed prior to the reporting date with the office which issued the order. Such requests must include a statement of the nature of the emergency and the expected period of its duration.

(c) *Grounds for Postponement.* An ASW may, upon presentation of the appropriate facts in his request, be granted a postponement based on one or more of the following conditions:

(1) The death of a member of his immediate family;

(2) An extreme emergency involving a member of his immediate family;

(3) His serious illness or injury; or

(4) An emergency condition directly affecting him which is beyond his control.

(d) *Basis for Considering Request.* The ASW's eligibility for a postponement shall be determined by the office of jurisdiction based upon official documents and other written information contained in his file. Oral statements made by the ASW or made by another person in support of the ASW shall be reduced to writing and placed in the ASW's file.

(e) *Duration of Postponement.* The initial postponement shall not exceed 60 days from the reporting date in the order. When necessary, the Director may grant one further postponement, but the total postponement period shall not exceed 90 days from the reporting date in the order involved.

(f) *Termination of Postponement.* (1) A postponement may be terminated by the Director for cause upon no less than ten days written notice to the ASW.

(2) Any postponement shall be terminated when the basis for the postponement has ceased to exist.

(3) It is the responsibility of the ASW promptly to notify in writing the office that granted the postponement whenever the basis for which his postponement was granted ceases to exist.

(g) *Effect of Postponement.* A postponement of the reporting date in an order shall not render the order invalid, but shall only serve to postpone the date on which the ASW is to report. The ASW shall report at the expiration or termination of the postponement.

(h) *Religious Holiday.* The Director may authorize a delay of reporting under any of the orders specified for an ASW whose date to report conflicts with a religious holiday historically observed by a recognized church, religious sect or religious organization of which he is a member. Any ASW so delayed shall report on the next business day following the religious holiday.

§ 1656.15 Suspension of Order To Perform Alternative Service Because of Hardship to Dependents.

(a) Whenever, after an ASW has begun work, a condition develops that results in hardship to his dependent as contemplated by § 1630.30(a) of this chapter which cannot be alleviated by his reassignment under § 1656.13(a) of this part, the ASW may request a suspension of Order to Perform Alternative Service. If the local board that ordered the ASW to report for Alternative Service determines he would be entitled to classification in Class 3–A, assuming that the ASW were eligible to file a claim for that class, further compliance with his order shall be suspended for a period not to exceed 365 days, as the local board specifies. Extensions of not more than 365 days each may be granted by the local board so long as the hardship continues until the ASW's liability for training and service under the Military Selective Service Act terminates.

(b) An ASW may file a request for the suspension of his Order to Perform Alternative Service with the ASO. This request must be in writing, state as clearly as possible the basis for the request, and be signed and dated by the ASW. The ASW must continue working in his assigned job until his request for the suspension of his Order to Perform Alternative Service has been approved.

(c) Local boards shall follow the procedures established in Part 1648 of this chapter to the extent they are applicable in considering a request for the suspension of an Order to Perform Alternative Service.

§ 1656.16 Early release—grounds and procedures.

(a) *General Rule of Service Completion.* An ASW will not be released from alternative service prior to completion of 24 months of creditable service.

(b) *Reasons for Early Release.* The Director may authorize the early release of an ASW whenever the ASO determines that the ASW:

(1) Has failed to meet the performance standards of available alternative service employment because of physical, mental or moral reasons;

(2) No longer meets the physical, mental or moral standards that are required for retention in the Armed Forces based on a physical or mental examination at a MEPS or other designated location;

(3) Is planning to return to school and has been accepted by such school and scheduled to enter within 30 days prior to the scheduled completion of his alternative service obligation;

(4) Has been accepted for employment and that such employment will not be available if he remains in alternative service the full 24 months. Such early release shall not occur more than 30 days before the scheduled completion of his alternative service obligation; or

(5) Has enlisted in or has been inducted into the Armed Forces of the United States.

§ 1656.17 Administrative complaint process.

(a) Whenever the ASOM learns that the ASW may have failed to perform satisfactorily his work (see § 1656.12(b)) or he receives a complaint by an employer or an ASW involving the ASW's work other than matters described in §§ 1656.6 and 1656.9(b) of this part, he shall take necessary action to:

(1) Interview, as appropriate, all parties concerned to obtain information relevant to the problems or complaints;

(2) Place a written summary of each interview in the ASW's file;

(3) Inform the persons interviewed that they may prepare and submit to him within ten days after the interview their personal written statements concerning the problem;

(4) Place such statements in the ASW's file; and

(5) Resolve the matter.

(b) The employer or ASW may seek a review of the decision under § 1656.17(a)(5) of this section. Such request must be filed in writing with the ASO, for action at the next higher level, within ten days after the date the notice of the decision is transmitted to the ASW and employer.

§ 1656.18 Computation of creditable time.

(a) Creditable time starts when the ASW begins work pursuant to an Order To Perform Alternative Service or 30 days after the issuance of such order, whichever occurs first. Creditable time will accumulate except for periods of:

(1) Work of less than 35 hours a week or an employer's full-time work week whichever is greater;

(2) Leaves of absence in a calendar year of more than 5 days in the aggregate granted by the employer to the ASW to attend to his personal affairs unless such absence is approved by the ASOM;

(3) Time during which an ASW fails or neglects to perform satisfactorily his assigned Alternative Service;

(4) Time during which the ASOM determines that work of the ASW is unsatisfactory because of his failure to comply with reasonable requirements of his employer;

(5) Time during which the ASW is not employed in an approved job because of his own fault; or

(6) Time during which the ASW is in a postponement period or his Order to Perform Alternative Service has been suspended.

(b) Creditable time will be awarded for periods of travel, job placement and job interviews performed under orders issued by Selective Service. Creditable time may be awarded for up to 10 work days of leave per year.

§ 1656.19 Completion of alternative service.

Upon completion of 24 months of creditable time served in alternative service or when released early in accordance with § 1656.16(b)(3) or (4):

(a) The ASW shall be released from the Alternative Service Program; and

(b) The Director shall issue to the ASW a Certificate of Completion and the registrant shall be reclassified in Class 4–W in accordance with § 1630.47 of this chapter.

§ 1656.20 Expenses for emergency medical care.

(a) Claims for payment of actual and reasonable expenses for emergency medical care, including hospitalization, of ASWs who suffer illness or injury, and the transportation and burial of the remains of ASWs who suffer death as a direct result of such illness or injury will be paid in accordance with the provisions of this section.

(b) The term "emergency medical care, including hospitalization", as used in this section, means such medical care or hospitalization that normally must be rendered promptly after occurrence of the illness or injury necessitating such treatment. Discharge by a physician or facility subsequent to such medical care or hospitalization shall terminate the period of emergency.

(c) Claims will be considered only for expenses:

(1) For which only the ASW is liable and for which there is no legal liability for his reimbursement except in accord with the provisions of this section; and

(2) That are incurred as a result of illness or injury that occurs while the ASW is acting in accord with orders of Selective Service to engage in travel or perform work for his Alternative Service employer.

(d) No claim shall be allowed in any case in which the Director determines that the injury, illness, or death occurred because of the negligence or misconduct of the ASW.

(e) No claim shall be paid unless it is presented to the Director within one year after the date on which the expense was incurred.

(f) Cost of emergency medical care including hospitalization greater than usual and customary fees for service established by the Social Security Administration, will *prima facie* be considered unreasonable. Payment for burial expenses shall not exceed the maximum that the Administrator of Veteran's Affairs may pay under the provisions of 38 U.S.C. 902(a) in any one case.

(g) Payment of claims when allowed shall be made only directly to the ASW or his estate unless written authorization of the ASW or the personal representative of his estate has been received to pay another person.

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BILLING CODE 8015-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL 2186-6]

Approval and Promulgation of State Implementation Plans; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this Notice is to present the results of EPA's review of the 1982 Vancouver, Washington, ozone (O_3) State Implementation Plan (SIP) revision. This SIP revision was developed in accordance with the provisions of Part D of the 1977 Clean Air Act, as amended, which requires plans for O_3 nonattainment areas with approved attainment date extensions to be submitted by July 1, 1982.

In today's action, EPA is proposing to approve the Vancouver SIP revision which was submitted by the Governor of Washington to EPA on July 16, 1982. EPA is requesting public comments on its proposed actions for a period of 30 days.

DATE: Comments must be received on or before November 1, 1982.

ADDRESSES: Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

Copies of the materials submitted to EPA may be examined during normal business hours at:

Central Docket Section, (10A–82–10) West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101

State of Washington, Department of Ecology, 4224 Sixth Avenue, SE., Lacey, WA 98503.

FOR FURTHER INFORMATION CONTACT:
Richard F. White, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101. Telephone No. (206) 442–4016, FTS: 399–4016.

SUPPLEMENTARY INFORMATION:

I. Introduction

Today's **Federal Register** action was processed in parallel with action on the State and local level to adopt and submit a revision to the currently approved SIP. This process enabled EPA to comment on the SIP in the early stages of SIP development and should reduce the need for the State to make changes in the SIP after State adoption. It also allows EPA to carry out its administrative rulemaking process concurrent with that of the State so that final EPA action can be completed shortly after the State submits its adopted SIP.

II. Background

The Clean Air Act Amendments of 1977 require States to submit plans to demonstrate how they will attain and maintain compliance with National Ambient Air Quality Standards for those areas designated as nonattainment. The Act further requires these plans to demonstrate compliance with primary standards no later than December 31, 1982. Provisions for an extenstion until December 31, 1987 are available for O_3 SIPs if the State can demonstrate that despite implementation of all reasonably available control measures the December 31, 1982 attainment date cannot be met.

The State of Washington department of Ecology (DOE) submitted an initial SIP revision for the Vancouver O_3 nonattainment area in June 1979. DOE requested EPA to extend the attainment date for the O_3 standard in this area beyond 1982, but no later than 1987. EPA approved the extension request and conditionally approved the initial plan revision on June 5, 1980 (45 FR 37821). EPA gave final approval to this intial plan revision on September 14, 1981 (46 FR 45607) after the conditions had been fulfilled.

The SIP revision subject to proposal today is the second phase of the 1979 SIP. It implements some measures and contains commitments to implement others described in the 1979 SIP. Since June of 1979 the Clark County Regional Planning Council (CCRPC) and the Southwest Air Pollution Control Authority (SWAPCA) have been updating the emission inventories for stationary and mobile sources of volatile organic compounds (VOC), refining the air quality modeling, holding additional public hearings and meetings with their advisory and policy making committees, narrowing down the number of transportation control measures (TCMs) and, finally, obtaining commitments from the local governmental jurisdictions to implement the selected TCMs. As a result of these activities, a draft SIP revision was prepared and submitted to EPA and DOE in April 1982. The SIP revision was adopted by CCRPC at a pubic hearing held April 28, 1982, and forwarded to DOE on May 3, 1982. DOE held another public hearing on June 10, 1982, adopted the SIP revision on June 22, 1982 and forwarded it to EPA for approval on July 16, 1982.

III. Plan Review

The general requirements for O_3 SIPs were described in the **Federal Register** published on January 22, 1981 (46 FR 7182). EPA reviewed the Vancouver O_3 SIP revision in accordance with those requirements and developed a technical support document which describes EPA's conclusions regarding each SIP requirement. The technical support document describes the elements of the adopted SIP revision, their location in the SIP and EPA's conclusions regarding approvability. The following discussion will briefly describe the SIP revision in terms of the major review points and indicate what action EPA Proposes.

A. *Technical Data and Modeling Results.* The Vancouver O_3 SIP revision was developed using a baseline design concentration of 0.146 parts per million (ppm). This design value was derived from data collected over the past three years.

The strategy for attaining the O_3 standard (i.e., bringing air quality levels from the design concentration of 0.146 ppm to the standard of 0.12 ppm) centers around reducing emissions of VOC, one of the major precursors to the formation of O_3. To determine the reduction needed for attainment, the "city specific Empirical Kinetic Modeling Approach" model was utilized. Based on this analysis, a 26 percent reduction in VOC emissions is required for attainment. Implementing the Vancouver stationary and mobile source control measures described below in combination with the measures being implemented in the Portland area, the required emission reduction is expected to be achieved by the end of 1987.

B. *Control Measures.* 1. *Stationary Sources.* Stationary source controls for VOC in the Vancouver nonattainment area are embodied in the DOE Washington Administrative Code (WAC) 173–490, which is enforced by the Southwest Air Pollution Control Authority (SWAPCA). DOE regulations, adopted in 1979 and 1980 to satisfy guidance published in the EPA Control Techniques Guidelines (CTG) for Groups I and II VOC categories, were approved as SIP revisions on September 14, 1981 (46 FR 45607) and April 14, 1982 (47 FR 16018). Under separate action, EPA is approving revisions to the State stationary source controls for VOC which were submitted on July 16, 1982. This action will satisfy the remaining requirements called for in the April 14, 1982 (47 FR 16018) notice. State regulations for Group III VOC sources will be developed and adopted in accordance with schedules published on June 5, 1980 (45 FR 37821). There are no other non-CTG sources emitting more than 100 tons per year. Additionally, new or modified major sources of VOC's will be required to obtain an emission offset in order to construct in Vancouver.

2. *Mobile Sources.* Measures for controlling VOC emissions from mobile sources include the Federal Motor Vehicle Emission Control Program and regional TCMs. The regional TCMs that have been committed to include improved public transit, programs to encourage employer rideshare and expanded park-and-ride facilities. The SIP describes each TCM in detail including funding commitments from implementing agencies and projected emission reductions.

The implementation of an inspection and maintenance program is not being required in Vancouver since the existing program in Portland, in operation since 1975, already meets Reasonably Available Control Technology (RACT) as defined for the entire Portland/Vancouver nonattainment area. Justification for this finding is contained in the technical support document for this action. The finding is based, in part, on the existence of an operating inspection and maintenance program with a demonstrated capability to achieve emission reductions equivalent to RACT.

C. *Other Major Elements.* 1. *Reasonable Further Progress.* Reasonable further progress (RFP) will be assessed in terms of the expected reductions described for the nonattainment area and the actual implementation of control measures. The plan includes a TCM monitoring procedure whereby the CCRPC will prepare an annual report identifying growth of new major and minor VOC sources, updating the emission inventory, identifying emission reductions and relating annual ambient

air quality to attainment status. The CCRPC will then use this report in combination with air quality data to assess RFP toward meeting air quality standards. If it is determined that RFP is not being maintained, a contingency plan contained in the SIP revision will be implemented to account for the shortfall.

2. *Basic Transportation Needs.* The SIP revision discusses "basic transportation needs" in relation to the selection of reasonably available control measures and their effect on public mobility. The control measures selected emphasize the local commitment to reduce VOC emissions and improve public transportation facilities.

3. *Conformity.* The conformity analysis procedure developed for the Portland, Oregon, portion of the nonattainment area to meet EPA requirements has been adopted by the CCRPC and is part of the submitted SIP revision. Regardless of the initial conformity finding of various plans and programs, individual projects still must comply with all provisions and requirements of the SIP.

4. *Public and Elected Official Participation.* Participation in the SIP revision development process extended to a wide range of public and elected officials. The Air Quality Advisory Task Force representing Federal, State and local government officials, citizens groups and industry groups met monthly to identify air quality impacts and trade offs between control measures for stationary and transportation sources. Socio-economic impacts, land use and energy usage were also considered. The Task Force developed recommendations on reasonably available transportation control measures, which were approved by the lead agency's Board of Directors. After a public hearing the completed Vancouver SIP revision was adopted on April 28, 1982 and forwarded to DOE for inclusion in the Washington SIP. The final SIP revision was submitted to EPA on July 16, 1982.

IV. Proposed EPA Action

EPA is proposing to approve the O_3 attainment plan revision which was submitted by DOE pursuant to Part D requirements. The proposed approval includes the extension of the attainment date for O_3 to December 31, 1987.

Interested parties are invited to comment on all aspects of this proposed approval of the Washington SIP. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by November 1, 1982 will be considered in any final action EPA takes on this proposal.

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

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant impact on a substantial number of small entities (46 FR 8709 (January 27, 1981)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410(b) and 7502))

Dated: August 6, 1982.

Robert S. Burd,

Regional Administrator.

[FR Doc. 82-26968 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Depreciation; Useful Life Guidelines

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend Medicare regulations to clarify which useful life guidelines providers of health care services may use to determine the useful life of a depreciable asset for Medicare reimbursement purposes. Current regulations state that providers must utilize HHS useful life guidelines or, if none have been published by HHS, the American Hospital Association (AHA) useful life guidelines of 1973 or IRS guidelines. We are proposing to eliminate the reference to IRS guidelines because those previously acceptable for Medicare purposes are outdated and have been made obsolete by the IRS or by statutory change. We would also delete the specific reference to the 1973 AHA guidelines. In addition, we intend this amendment to clarify that certain tax legislation on accelerated depreciation, recently passed by Congress, does not apply to the Medicare program.

DATES: To assure consideration, comments should be mailed by November 29, 1982.

ADDRESS: Please address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

In commenting, please refer to file code BPP-125-P. If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection, as they are received, beginning approximately three weeks from today, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: Bernard Patashnik, 301-597-1335.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program (title XVIII of the Social Security Act), hospitals, skilled nursing facilities and home health agencies furnish medically necessary inpatient, outpatient or home health services to eligible beneficiaries. These institutions or organizations, known as providers of health care services, are reimbursed by Medicare for the covered services they provide to beneficiaries, based on the lesser of the reasonable costs or customary charges for providing the services. In determining reasonable costs, HCFA takes into account only costs that are necessary and proper expenses in providing health care services.

Current requirements

Current Medicare regulations (42 CFR 405.415(a)) provide that an appropriate allowance for depreciation on buildings and equipment used by providers in furnishing patient care is an allowable cost. The regulations further provide that depreciation is a proration of the costs of depreciable assets over the estimated useful lives of the assets. The useful life of an asset is defined as the normal operating or service life of the asset to the provider (42 CFR 405.415(b)(7)). Thus, the useful life of an asset is an estimate of how long a provider can use the asset in the production of health care services. Generally, we require that assets be depreciated to salvage value. These concepts are consistent with contemporary accounting theory, which defines depreciation as a systematic and rational method of allocating costs to periods in which benefits are received.

In projecting the useful life of an asset, a provider may consider factors

such as normal wear and tear, obsolescence due to normal economic and technological changes, climatic and other local conditions, and the provider's policies regarding repair and replacement. Various guidelines are available to aid the provider in estimating useful lives. Some guidelines provide an item-by-item breakdown of useful lives, and others give recommendations for classes of assets.

Current regulations (42 CFR 405.415(b)(7)(i)) require that providers use guidelines established by the Secretary. The regulations further state that, if there are no such guidelines, the guidelines published by the American Hospital Association (AHA) in its 1973 edition of "Chart of Accounts for Hospitals" or Internal Revenue Service (IRS) guidelines must be used. Alternatively, the regulations permit a provider to select a useful life not contained in the AHA or IRS guidelines. In this case, however, the useful life must nonetheless be based on the asset's operating or service life to the provider, and we require providers to furnish the Medicare fiscal intermediary with convincing reasons and supporting documentation to justify its selection, and to obtain the intermediary's approval.

AHA guidelines

The AHA's "Chart of Accounts for Hospitals" contains general accounting data and information which may be used by hospitals in establishing a uniform system for classification of accounts in the hospital field. The document also contains guidelines for estimating useful lives of depreciable assets. Those guidelines are periodically updated by the AHA and were last revised in 1978.

As noted above, current regulations state that providers may use the 1973 AHA useful life guidelines. In the proposed regulations, we would change the reference to state that providers may continue to use the edition of AHA guidelines as specified in HCFA Medicare program manuals.

Providers routinely receive manual changes through their intermediaries and would thereby be notified if we update the reference to acceptable AHA guidelines.

IRS guidelines

Use of IRS useful life guidelines by providers is not widespread. We estimate that fewer than ten percent of all providers currently rely on them. We have permitted providers to use IRS guidelines because the IRS concept of an asset's useful life, for the most part, has been consistent with that of the Medicare program. However, IRS guidelines have been changed over the years and have included various options not acceptable for Medicare reimbursement purposes because they did not constitute an acceptable method for estimating an asset's useful life. For example, we specifically prohibit, in Medicare program manuals but not in regulations, the use of the Asset Depreciation Range System (ADRS) which sets forth class lives for broad classes of assets and designates upper and lower limits from which a life may be selected for depreciation purposes. We determined that ADRS was unacceptable because the depreciation period may be significantly shorter than the actual useful life of the asset. Moreover, the IRS guidelines that were acceptable to HCFA in the past are now outdated (for instance, *Bulletin F, Estimated Useful Lives and Depreciation Rates* and *Revenue Procedure 62–21*). In addition, recent changes to the tax law virtually eliminate the concept of a useful life based on the utility of the asset. For these reasons, this proposal would remove from the regulations the option allowing providers to select IRS useful life guidelines for estimating the useful lives of newly acquired assets. However, because previously acceptable IRS guidelines have been based on the utility of an asset, and because this proposal would permit the use of guidelines other than AHA guidelines subject to the approval of the intermediary, providers that are currently using those IRS guidelines for existing assets would continue to be permitted to do so.

New legislation

The new legislation (section 201 of Pub. L. 97–34, the Economic Recovery Tax Act of 1981) established an accelerated cost recovery system (ACRS) for writing off the costs of assets for tax purposes. This provision is designed to encourage investments by business and industry in new assets as a means of stimulating the national economy. It allows all assets to be depreciated for tax purposes over much shorter periods of time than may be done under previously existing tax laws. For example, ACRS permits real property such as buildings to be depreciated over 15 years. This contrasts with existing depreciation rules, approved for use in the Medicare program, that prescribe useful lives of buildings as 30, 40 or even 50 years.

Congress specifically provided in section 203(e) of Pub. L. 97–34 that the Secretary of HHS is not required to apply any provision of the Internal Revenue Code of 1954, as amended, in calculating depreciation for the purpose of determining any cost under a program administered by HHS, unless required by law to do so.

The new tax reduction legislation does not repeal or amend any provisions of the Medicare statute or reimbursement principles established as part of the Medicare program. However, in departing from the concept of a useful life based on the utility of the asset for depreciation, the application of ACRS to the Medicare program would have a severe adverse impact on the program by resulting in significantly accelerated reimbursement having no reasonable connection to the efficient delivery of patient care. We believe that reduction of the amount of time over which assets may be depreciated to reduce tax liabilities should not be applied to accelerate the reimbursement of costs for patient care under Medicare.

The Medicare program is intended to finance quality health care to eligible individuals, with reimbursement to providers of the reasonable cost of furnishing that care, as required by section 1861(v)(1) of the Social Security Act. We believe that application of the ACRS would be at variance with that requirement and with current efforts to contain the rising costs of health care. Consequently, we do not think it is either intended or appropriate for the Medicare program to be included in general with business and industry in the use of ACRS to stimulate the economy.

II. Changes in the regulations

We are proposing to delete the specific reference to the AHA 1973 "Chart of Accounts for Hospitals" and the general reference to IRS guidelines contained in 42 CFR 405.415 (b)(7)(i). In place of the reference to specific AHA guidelines, we would state that the acceptable edition of AHA guidelines is specified in HCFA manuals. Thus, providers would be able to use guidelines established by HCFA or, in their absence, approved AHA guidelines or an alternative guideline approved by their intermediary for determining useful lives of assets.

The first proposed change would eliminate the need to update the reference in the regulations to AHA guidelines. The second change would ensure that any existing tax depreciation methods (for example, ADRS or ACRS), or any new methods developed in the future, which do not provide for depreciation based on the asset's useful life are not used by

providers for Medicare reimbursement purposes.

The use of ACRS for tax purposes, where it applies in business and industry, is mandatory and prospective for assets acquired on or after January 1, 1981. Thus, the proposed regulations would not remove an option previously allowed to providers. Rather, we would be prohibiting the use of new tax legislation for Medicare reimbursement purposes. Therefore, we do not believe that this change in the regulations will result in any disadvantage to providers. To be consistent with the effective date of the ACRS provisions of Pub. L. 97–34, we would make the final regulations resulting from this proposed rule effective on January 1, 1981.

It is important to emphasize here that providers will continue to have the right to request approval from their intermediaries to use a particular set of guidelines different from the approved AHA guidelines. As noted above, any useful life guideline proposed for use by a provider must be based on the utility of the asset to the provider, and the provider must submit documentation to the intermediary to justify the selection.

III. Impact Analyses

A. Executive Order 12291

The Secretary has determined that this proposed rule does not meet the criteria for a "major rule," as defined by section 1(b) of Executive Order 12291.

While the proposed regulations would implement a change in Medicare policy regarding the use of IRS guidelines in determining useful lives of assets, the effect on providers and intermediaries would be minimal. Few providers currently use the guidelines. Moreover, providers currently using previously acceptable IRS guidelines for Medicare depreciation purposes would be able to continue for existing assets.

In addition, providers will retain the right, with respect to newly acquired assets, to seek approval of useful lives other than those set out in approved AHA guidelines. On the other hand, the change in policy would help to avoid possible increased costs to the Medicare program because of inadvertent application of IRS accelerated depreciation methods or guidelines in Medicare depreciation determinations.

B. Regulatory Flexibility Act

The Secretary certifies, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

Many providers of health care services qualify as small businesses. However, the proposed change in policy concerning the IRS useful life guidelines would not have a significant economic effect because few providers currently use those guidelines. Furthermore, for newly acquired assets, providers could seek the approval of their intermediaries to use guidelines that are as advantageous to the providers as the previously acceptable IRS guidelines.

IV. Reponses to Comments

Because of the large number of comments we receive from the public, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

The authority citation for Subpart D reads as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1861(v), and 1871, 49 Stat. 647, as amended. 79 Stat. 296, 79 Stat. 302, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq., unless otherwise noted.

42 CFR 405.415 is amended by reprinting the introductory language in paragraph (b)(7) and by revising paragraph (b)(7)(i) to read as follows:

§ 405.415 Depreciation: Allowance for depreciation based on asset costs.

* * * * *

(b) *Definitions.* * * *

(7) *Useful life.* The estimated useful life of a depreciable asset is its normal operating or service life to the provider, subject to the provisions in paragraph (b)(7)(i) of this section. Factors to be considered in determining useful life include normal wear and tear; obsolescence due to normal economic and technological changes; climatic and other local conditions; and the provider's policy for repairs and replacement.

(i) *Initial selection of useful life.* In selecting a proper useful life for computing depreciation under the Medicare program, providers must use the useful life guidelines published by HCFA. If HCFA has not published applicable useful life guidelines, providers must use—

(A) The edition of the American Hospital Association useful life guidelines, as specified in HCFA Medicare program manuals; or

(B) A different useful life specifically requested by the provider and approved by the intermediary. A different useful life may be approved by the intermediary if the provider's request is properly supported by acceptable factors that affect the determination of useful life. However, such factors as an expected early sale, retirement, demolition or abandonment of an asset, or termination of the provider from the Medicare program may not be used.

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(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: June 30, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved August 24, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27026 Filed 9-29-82; 8:45 am]

BILLING CODE 4120-03-M

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42 CFR Parts 431, 434, 435, and 447

Medicaid Program; Contracts with Health Maintenance Organizations and Prepaid Health Plans

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rules.

SUMMARY: These proposed amendments would—

(1) Make it possible for Medicaid agencies to contract on a risk basis with health maintenance organizations (HMOs) other than those that meet all the requirements for a Federally qualified HMO;

(2) Ease requirements that limit the proportion of HMO enrollees that may be persons eligible for Medicare or Medicaid; and

(3) Permit States to continue to provide Medicaid, for a period of up to 6

months from the date of enrollment in a Federally qualified HMO, even if the enrollee loses Medicaid eligibility before the end of that period.

These regulations are necessary to implement section 2178 of the Omnibus Budget Reconciliation Act of 1981. They also include changes made as part of regulatory reform. The intent is to encourage and enable Medicaid agencies to make greater use of HMOs and other prepaid health plans (PHPs) to provide cost-effective health care to Medicaid recipients.

In addition, as part of our regulatory reform effort, we are eliminating several existing regulatory requirements and simplifying others to provide greater flexibility for States in contracting with prepaid health care organizations.

DATE: In order to ensure consideration, comments should be mailed by November 29, 1982.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

In commenting, please refer to BPP–504–P. If you prefer you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132 East High Rise, 6325 Security Boulevard, Baltimore, Md. 21207.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication in Room 309–G of the Department's office at 200 Independence Ave., SW., Washington, D.C., 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Bernard Truffer, (301) 597–1369.

SUPPLEMENTARY INFORMATION: Current Medcaid regulations at 42 CFR Part 431, Subpart L, contain a number of requirements applicable to State contracts with HMOs and other types of prepaid health plans (PHPs). Statutory amendments made by the Omnibus Budget Reconciliation Act of 1981 require changes in the regulations. In addition, the HCFA Task Force on Regulatory Reform has reviewed certain of the requirements and determined that they can be either eliminated or modified to provide greater opportunity for States to use these organizations as a cost-effective means of furnishing services.

Before the 1981 amendments, section 1903(m) of the Social Security Act allowed Federal financial participation (FFP) in State expenditures under a risk-basis contract for comprehensive medical services only if the contract was with an HMO or with certain other entities (specified in section 1903(m)(2)(B)) that had received grants under the Public Health Service Act or the Appalachian Regional Development Act or had contracts with Medicaid agencies before enactment of the HMO provisions. Section 1903(m) defined HMO as an organization that furnished certain specified services and met the requirements of sections 1301(b) and (c) of the Public Health Service (PHS) Act regarding form of organization and manner of furnishing services. As a condition of payment to an HMO, Section 1903(m) required that: (1) The Secretary determine that the organization meets the HMO definition; and (2) the HMO comply with a specified composition of enrollment standard (see below the discussion of "Composition of Enrollment"). The entities specified in section 1903(m)(2)(B) are exempted from these two conditions, and are described in the regulations as PHPs that qualify for risk contracts.

The law does not define "risk basis", but uses it in the same sense as "prepaid capitation basis". Section 431.502 of the regulations defines "risk" as the chance that the contractor's cost of furnishing the services may exceed the reimbursement, that is, the capitation or premium payments determined at the start of a contract period. Although the law does not define "nonrisk", we have interpreted the term to mean that a Medicaid agency may make retroactive adjustments at the end of a contract period so that the contractor is reimbursed for costs actually incurred. The upper limits for State agency payments under risk contracts are different from the upper limits for nonrisk contracts. (See below discussion of "Payments Limits".)

Changes Based on Statutory Amendments

The changes made by section 2178 of Pub. L. 97–35, and the corresponding changes we propose to make in the regulations are discussed below:

Definition of HMO

Section 2178 of Pub. L. 97–35 broadens the definition of HMO to permit FFP for comprehensive services furnished, under a risk contract, not only by organizations that meet the requirements of sections 1301(b) and (c) of the PHS Act (hereafter referred to as Federally qualified HMOs), but also for services furnished by other entities that—

1. Make their services available to Medicaid enrollees to the same extent they are available from other sources to nonenrolled Medicaid recipients in the area; and

2. Make provision (satisfactory to the State) against the risk of insolvency and assure that Medicaid recipients will not be responsible for the HMO's debts if it does become bankrupt.

We propose to amend the regulations to provide that, if a State plan provides for risk-basis contracts with other than Federally qualified HMOs, it must include the State's definition of HMO, and to require that, under the State definition, the HMO must meet at least the two statutory requirements listed above (§ 434.20(c)). The State may impose additional requirements it finds necessary. Since section 1903(m)(1)(B) of the Act still requires the Secretary to determine whether an organization is an HMO, § 434.71(b) would require the HCFA Regional Adminstrator to certify that contractors meet the State definition of HMO.

Composition of Enrollment

Previous law specified that Medicare and Medicaid beneficiaries must constitute less than 50 percent of the enrollees of an HMO and provided for a temporary waiver of that requirement (up to 3 years) for HMOs entering the program.

Section 2178 of Pub. L. 97–35 raised from 50 percent to 75 percent the maximum proportion of an HMO's enrollees that may be persons entitled to Medicare or Medicaid and retained the temporary waiver of that upper limit for new HMOs. In addition, it authorized waiver or modification of the limit for public HMOs if there are special circumstances that justify this and if the HMO is making reasonable efforts to enroll non-beneficiaries. The provision recognizes that HMOs run by State, county, or municipal hospitals or health departments may find it difficult to meet the 75 percent limitation because they serve primarily the beneficiaries of public programs.

Corresponding amendment would be made in §§ 434.26(b) and (c).

Contract Requirements

The section 2178 amendments to section 1903(m) of the Act make clear that the contract between a Medicaid agency and the HMO must provide for the following:

1. The capitation fee is determined on an actuarially sound basis.

2. The Secretary and the State may inspect and audit the financial records

of the contractor and any subcontractors.

3. In enrolling Medicaid recipients, the HMO will not discriminate on the basis of the individual's health status or need for health care services.

4. A Medicaid enrollee may terminate enrollment at any time without cause, and is informed of this right when he or she enrolls.

5. Either the State of the HMO pays promptly for emergency services furnished by a source other than the HMO.

These provisions would be implemented by several sections of Subpart C of Part 434.

Extended Medicaid Eligibility

One factor that has kept States from making greater use of HMOs is the adminstrative difficulties caused by fluctuations in Medicaid eligibility. Since beneficiaries may have frequent changes in income, they may go on and off the rolls several times during a relatively short period. This causes problems for both the State and the HMO. The State's system for making capitation payments to the HMO may not always be tied closely enough to the eligibility process to ensure that the payments stop when eligibility ends. Thus, the State may make three or four payments for a person not currently eligible. The fluctuations also make it impossible for the HMO to be certain of the amounts it will receive, in capitation fees, for a particular period.

Section 2178 of Pub. L. 97–35 amended section 1902(e) of the Act to provide States the option of continuing Medicaid, for a period of up to 6 months from date of enrollment in a Federally qualified HMO, even if the enrollee loses Medicaid eligibility before the end of that period. This should help to resolve the administrative problems for both States and HMOs and facilitate use of HMOs in Medicaid.

This option would be set forth in new §§ 435.212 and 435.326.

Regulatory Reform Changes

The changes made as part of our regulatory reform effort are intended to simplify the regulations and provide States greater flexibility in using HMOs and PHPs as sources of Medicaid services.

1. *Elimination of certain requirements.* The current Medicaid regulations repeat some of the requirements contained in the PHS Act, which are applied by the Public Health Service in determining whether an organization is a Federally qualified HMO. Because the repetition is unnecessary with respect to these HMOs and because we are not imposing these requirements for State-defined HMOs, we propose to eliminate them from the regulations. These include, for example, requirements for feasibility and planning studies (current § 431.541), certain enrollment provisions (§§ 431.527(a) and 431.528(a)), and emergency service provisions (§ 431.532(a)).

In addition to the PHS requirements, the regulations now contain certain other requirements not specified by statute. We believe these can be eliminated, without decreasing accessibility or quality of services, in order to permit States greater freedom in determining the types of contracts they wish to have. For this purpose, we propose to delete the requirements for specifying in contracts certain risk, savings apportionment, and reinsurance provisions (§§ 431.524–431.526); a requirement that the contractor provide information on health care to each enrollee to help improve his or her health status (§ 431.536), and a provision for contractor distribution of general information about its services (§ 431.545). We believe these are the types of requirements best handled by each State both in the overall context of its health care delivery system, and with respect to the particular needs of each contract situation.

2. *HMO nonrisk contracts.* The regulations provide that Medicaid agencies may enter into nonrisk contracts (as well as risk contracts) with Federally qualified HMOs (§ 434.20(b)). Existing regulations do not allow States to enter into nonrisk contracts with HMOs. They allow such contracts only with PHPs. Since this restriction is not required by the statute, we believe that States should have the flexibility to enter into nonrisk, as well as risk, contracts with HMOs.

3. *Payment limits.* Current regulations (§ 447.361) state that total capitation payments made by the agency may not exceed what it would pay for the same group of services on a fee-for-service basis, or what other third party payers are paying for comparable services under comparable circumstances. We would revise § 447.361—

- To make clear that it applies only to risk contracts; and
- To delete the reference to what other third party payers are paying.

We have concluded that the third party payer language is redundant and confusing because, in most cases, third party payment rates are indirectly incorporated in the fee-for-service rates. We would also add a new § 447.362 to provide that, for nonrisk contracts, the agency payments may take into account the cost of administrative services (such as quality assurance or securing payment from liable third parties) that are performed by the contractor, but would have to be performed by the Medicaid agency itself if it paid on a fee-for-service basis.

The regulatory reform changes apply to contracts with all PHPs, not just HMOs, and we have extended to PHPs the statutory provision that raises to 75 percent the limitation on the composition of enrollment. We are continuing our review of the requirements applicable to risk and nonrisk contracts with PHPs to determine whether all of them need to be retained. If we determine some can be eliminated, we will publish an additional notice of proposed rulemaking. However, we do not want to delay implementation of the options provided by the statutory amendments, pending completion of that review. For that reason, these proposed regulations contain the existing requirements not yet reviewed as well as the changes discussed above.

In summary, the proposed changes would increase flexibility and thus encourage States to make greater use of HMOs and other prepayment plans to furnish Medicaid services. The additional options would make it possible for Medicaid agencies to:

- Enter into risk contracts with State-defined HMOs (as well as Federally qualified HMOs, and certain other prepayment plans specified in the Medicaid statute).
- Enter into nonrisk contracts with Federally qualified HMOs, as well as with State-defined HMOs and other prepayment plans.
- Continue to provide Medicaid, for a period of up to 6 months from the date of enrollment, to a Medicaid enrollee of a Federally qualified HMO, even if the enrollee loses Medicaid eligibility before the end of the specified period.

We are also reorganizing all of the material on contracts now in Subpart L of 42 CFR Part 431 and relocating it in a new Part 434. This includes rules on contracts made by a State Medicaid agency with other entities, as well as those with HMOs and PHPs. No substantive changes other than those described above are being made at this time.

Response to Comments

Because we receive large numbers of comments, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

Impact Analysis

Executive Order 12291

Executive Order 12291 requires us to prepare a regulatory analysis for any rule that is likely to result in an annual effect on the economy of $100 milion or more; a major increase in costs or prices for consumers, individual industries, government agencies, or geographical regions; or significant adverse effects on business or employment.

We have determined that these regulations will not have a significant economic impact. The elimination of requirements that are duplicative or unnecessary may permit some administrative economies, and more extensive use of risk-basis contracts with HMOs and PHPs would tend to reduce program costs.

Regulatory Flexibility Act of 1980 (Pub. L. 96–354)

This Act requires us to prepare and publish a regulatory flexibility analysis for any regulations that will have a significant economic impact on a substantial number of small entities. There are currently approximately 36 State contracts with HMOs serving 187,000 beneficiaries, and 18 PHP contracts serving 94,600 beneficiaries. The changes made by these regulations will not affect participating entities except to reduce some requirements. To the extent that State Medicaid agencies take advantage of their new options, additional; HMOs and PHPs, both large and small, will have opportunity to participate in the program. Since we have no way of knowing how many will become participants, we have no basis for an anaylsis.

Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) requires Federal agencies to seek the approval of the Executive Office of Management and Budget (EOMB) for any regulations that contain reporting and recordkeeping requirements that are subject to the statute.

In compliance with Pub. L. 96–511, we have requested EOMB approval of the following sections of these regulations which require the collection of information:

Sec.
434.6 General requirements for all contracts and subcontracts.
434.10 Contracts with fiscal agents.
434.12 Contracts with nonmedical institutions.
434.14 Contracts with health insuring organizations.
434.20 Basic rules.
434.23 Capitation fees.
434.25 Coverage and enrollment.
434.27 Termination of enrollment.
434.32 Grievance procedures.
434.53 Periodic medical audits.

List of Subjects

42 CFR Part 431

Administrative practice and procedure, Contracts (Agreements), Fair hearings, Federal financial participation (FFP), Grant-in-Aid program—health, Health facilities, Health maintenance organizations (HMO), Indians, Information (Disclosure), Medicaid, Mental health center, Prepaid health plans, Privacy, Quality control, Reporting requirements.

42 CFR Part 434

Contracts, Federal financial participation (FFP), Health Maintenance Organizations (HMO), Prepaid Health Plans (PHPs).

42 CFR Part 435

Aid to Families with Dependent Children, Aliens, Categorically needy, Contracts (Agreements—State Plan), Eligibility, Grant-in-Aid program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spending-down, Supplemental security income (SSI).

42 CFR Part 447

Accounting, Clinics, Contracts (Agreements), Copayments, Drugs, Grant-in-Aid program—health, Health facilities, Health professions, Hospitals, Medicaid, Nursing homes, Payments for services: general, Payments: timely claims, Reimbursement, Rural areas.

REDESIGNATION TABLE FOR PART 431, SUBPART L

Part 431 section	Part 434 section
431.501	434.1.
431.502	434.2.
431.503	434.6(a).
431.504	434.6(b).
431.510	434.10.
431.511	434.12.
431.512	434.14.
431.520(a)	434.20(a).
431.520(b)	434.20(d)(2).
431.521	434.2.
431.522 Removed because of changes in the law.	
431.523	434.23.
431.524–431.526 Deleted to provide greater flexibility.	
431.527(a) Deleted as duplicative of Public Health Service requirements.	
431.527(b)	434.25.
431.528(a) Deleted as duplicative of Public Health Service requirements.	
431.528(b) & (c)	434.26.
431.529 Deleted as duplicative of § 434.6.	
431.530	434.27.
431.531	434.29.
431.532(a) Deleted as duplicative of Public Health Service requirements.	
431.532(b)	434.30.
431.533	434.32.
431.534	434.34.
431.535	434.36.

REDESIGNATION TABLE FOR PART 431, SUBPART L—Continued

Part 431 section	Part 434 section
431.536 Deleted to provide greater flexibility.	
431.537 Deleted as duplicative of 434.6.	
431.540	434.50.
431.541 Deleted as duplicative of Public Health Service requirements.	
431.542	434.52.
431.543	434.53.
431.544	434.55.
431.545 Deleted to provide greater flexibility.	
431.546	434.57.
431.547	434.59.
431.548	434.61.
431.549	434.63.
431.550(a)	434.65.
431.550(b)	434.22.
431.555–431.560 Deleted as duplicative of 431.520–431.526.	
431.565	434.23(b).
431.568–431.589 Deleted as duplicative of 431.527–431.550.	
431.591(a) and (b)	434.70.
431.591(c)	434.78.
431.592	434.72.
431.593	434.71.
431.594	434.74.
431.595	434.75.
431.596	434.76.
431.597 Deleted as unnecessary, given the reorganization and revision of these regulations.	

42 CFR Chapter IV is amended as set forth below:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

The authority citation for Part 431 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

A. Part 431 is amended by removing and reserving Subpart L and amending the table of contents to reflect that change:

Subparts G-L—[Reserved]

B. The content of Subpart L of Part 431 is revised and redesignated as a new Part 434, to read as follows:

PART 434—CONTRACTS

Subpart A—General Provisions

Sec.
434.1 Basis and scope.
434.2 Definitions.
434.4 State plan requirement.
434.6 General requirements for all contracts and subcontracts.

Subpart B—Contracts with Fiscal Agents, Nonmedical Institutions, and Health Insuring Organizations

434.10 Contracts with fiscal agents.
434.12 Contracts with nonmedical institutions.
434.14 Contracts with health insuring organizations.

Subpart C—Contracts with HMOs and PHPs:

General Requirements

Sec.
434.20 Basic rules.

Additional requirements for Certain Risk Contracts

434.21 Contracts that must meet additional requirements.
434.23 Capitation fees.
434.25 Coverage and enrollment.
434.26 Composition of enrollment.
434.27 Termination of enrollment.
434.29 Choice of health professional.
434.30 Emergency medical services.
434.32 Grievance procedures.
434.34 Quality assurance system.
434.36 Marketing.
434.38 Inspection and audit of HMO's financial records.

Subpart D—Contracts with HMOs and PHPs: Medicaid Agency Responsibilities

434.50 Proof of capability.
434.52 Furnishing of required services.
434.53 Periodic medical audits.
434.55 Approval of marketing plans, procedures, and materials.
434.57 Limit on payment to other providers.
434.59 Continued service to recipients whose enrollment is terminated.
434.61 Computation of capitation fees.
434.63 Monitoring procedures.
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Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

Subpart A—General Provisions

§ 434.1 Basis and scope.

(a) *Basis.* This part is based on sections 1902(a)(4) and 1903(m) of the Act. Section 1902(a)(4) requires that the State plan provide for methods of administration that the Secretary finds necessary for proper and efficient operation of the plan. Section 1903(m)(1)(A) of the Act defines an HMO as an entity that meets the requirements of the Public Health Service (PHS) Act to be a Federally qualified HMO, or meets two specified requirements pertaining to accessibility of services and fiscal solvency. Section 1903(m)(2)(A) limits risk-basis contracts for specified health services to entities that meet the HMO definition of section 1903(m)(1)(A) and sets forth certain enrollment and other requirements that these contracts must meet as a condition for FFP. Section 1903(m)(2)(B) exempts, from the limitations of section 1903(m)(2)(A), certain specified prepayment plans that are not HMOs.

(b) *Scope.* This part sets forth the requirements for contracts with certain organizations for furnishing Medicaid services or processing or paying Medicaid claims.

§ 434.2 Definitions.

As used in this part, unless the context indicates otherwise—

"*Contractor*" means any of the following entities that contract with the Medicaid agency, under the terms of this subpart, to process claims, or to pay for or provide medical services, under a State plan in return for a payment:

(a) A fiscal agent.

(b) A health care project grant center.

(c) A private nonmedical institution.

(d) A health insuring organization.

(e) A health maintenance organization.

(f) A prepaid health plan.

"*Enrolled recipient*" means an individual who is eligible for Medicaid and who enters into an agreement to receive services from a health maintenance organization or prepaid health plan that contracts with the agency under this part.

"*Federally qualified HMO*" means an HMO that has been determined by the Public Health Service (PHS) to be a qualified HMO under section 1310(d) of the PHS Act.

"*Fiscal agent*" means an entity that processes or pays vendor claims for the agency.

"*Health care projects grant center*" means an entity that—

(a) Is supported in whole or in part by Federal project grant financial assistance; and

(b) Provides or arranges for medical services to recipients.

"*Health insuring organization*" means an entity that—

(a) Pays for medical services provided to recipients in exchange for a premium or subscription charge paid by the agency; and

(b) Assumes an underwriting risk.

"*Health maintenance organization (HMO)*" means a public or private organization organized under State law that—

(a) Is a Federally qualified HMO; or

(b) Meets the State plan's definition of an HMO.

"*Capitation fee*" means the fee the agency pays periodically to a contractor for each recipient enrolled under a contract for the provision of medical services under the State plan, whether or not the recipient receives the services during the period covered by the fee.

"*Prepaid health plan (PHP)*" means an entity that provides medical services under contract with the Medicaid agency to enrolled recipients, on the basis of prepaid capitation fees but does not qualify as an HMO.

"*Private nonmedical institution*" means an entity that—

(a) Provides medical care through contracts or other arrangements with medical providers;

(b) Is reimbursed through prepaid capitation payments from the agency;

(c) Does not assume an underwriting risk; and

(d) Is not, as a matter of regular business, a prepaid health insuring organization or community health care center. Examples of private nonmedical institutions are child-care institutions and maternity homes.

"*Provisional status HMO*" means an HMO that the State agency has determined is a provisional status Federally qualified HMO because more than 90 days have elapsed since the HMO applied to the PHS for Federal qualification and the PHS has not made a final determination. The provisional status continues until the PHS makes the final determination or the contract with the Medicaid agency is terminated, whichever occurs first.

"*Risk*" or "*underwriting risk*" means a significant chance that a contractor may incur a loss—

because the cost of providing services may exceed the capitation fees paid by the agency to the contractor during the contract period.

§ 434.4 State plan requirement.

If the State plan provides for contracts of the types covered by this part, the plan must also provide for meeting the applicable requirements of this part.

§ 434.6 General requirements for all contracts and subcontracts.

(a) *Contracts.* All contracts under this part must—

(1) Be in writing;

(2) Specify the contract period;

(3) Specify the functions of the contractor;

(4) Identify the population covered by the contract;

(5) Specify any procedures for enrollment or reenrollment of the covered population;

(6) Specify the amount, duration, and scope of medical services to be provided or paid for;

(7) Provide that the agency and HHS may evaluate through inspection or other means, the quality, appropriateness and timeliness of services performed under the contract;

(8) Provide that the agency and HHS may audit and inspect any of the contractor's records that pertain to services performed and determination of amounts payable under the contract;

(9) Specify procedures and criteria for extending the contract;

(10) Specify procedures and criteria for renegotiating the contract;

(11) Specify procedures and criteria for terminating the contract, including a requirement that the contractor promptly supply all information necessary for the reimbursement of any outstanding Medicaid claims;

(12) Provide that the contractor maintains an appropriate record system for services to enrolled recipients;

(13) Provide that the records referred to in paragraph (a)(12) of this section are retained in accordance with the record retention requirements of 45 CFR Part 74;

(14) Provide that the contractor safeguards information about recipients as required by Part 431, Subpart F of this chapter;

(15) Specify any activities to be performed by the contractor that are related to third party liability requirements in Part 433, Subpart D, of this chapter;

(16) Specify which functions may be subcontracted; and

(17) Provide that any subcontracts meet the requirements of paragraph (b) of this section.

(b) *Subcontracts.* All subcontrcts must—

(1) Be in writing; and

(2) Fulfill the requirements of this part that are appropriate to the service or activity delegated under the subcontract.

(c) *Continued responsibility of contractor.* No subcontract terminates the legal responsibility of the contractor to the agency to assure that all activities under the contract are carried out.

Subpart B—Contracts With Fiscal Agents, Nonmedical Institutions, and Health Insuring Organizations

§ 434.10 Contracts with fiscal agents.

Contracts with fiscal agents must—

(a) Meet the requirements of § 434.6;

(b) Include termination procedures that require the contractors to supply promptly all material necessary for continued operation of payment and related systems. This material includes—

(1) Computer programs;

(2) Data files;

(3) User and operation manuals, and other documentation;

(4) System and program documentation; and

(5) Training programs for Medicaid agency staff, their agents or designated representatives in the operation and maintenance of the system;

(c) Offer to the State one or both of the following options, if the fiscal agent or the fiscal agent's subcontractor has a proprietary right to material specified in paragraph (b) of this section:

(1) Purchasing the material; or

(2) Purchasing the use of the material through leasing or other means;

(d) State the amount to be paid to the contractor for performing the functions under the contract;

(e) State the basis for the amount to be paid to the contractor;

(f) State when payment is to be made to the contractor; and

(g) State that payment to providers will be made in accordance with Part 447 of this chapter.

§ 434.12 Contracts with private nonmedical institutions.

Contracts with private nonmedical institutions must—

(a) Meet the requirements of § 434.6;

(b) Specify a capitation fee based on the cost of the services provided, in accordance with the reimbursement requirements prescribed in Part 447 of this chapter; and

(c) Specify when the capitation fee must be paid.

§ 434.14 Contracts with health insuring organizations.

(a) Contracts with health insuring organizations must—

(1) Meet the requirements of § 434.6;

(2) Specify that the capitation fee will not exceed the limits set forth under Part 447 of this chapter;

(3) Specify that, except as permitted under paragraph (b) of this section, the capitation fee paid on behalf of each recipient may not be renegotiated—

(i) During the contract period if the contract is for 1 year or less; or

(ii) More often than annually if the contract period is for more than 1 year;

(4) Specify that the capitation fee will not include any amount for recoupment of any losses suffered by the contractor for risks assumed under the same contract or a prior contract with the agency;

(5) Specify that the contractor assumes at least part of the underwriting risk and:

(i) If the contractor assumes the full underwriting risk, specify that payment of the capitation fees to the contractor during the contract period will constitute full payment by the agency for the cost of medical services provided under the contract; and

(ii) If the contractor assumes less than the full underwriting risk, specify how the risk is apportioned between the agency and the contractor;

(6) Specify whether the contractor returns to the agency part of any savings remaining after allowable costs are deducted from the capitation fees and, if savings are returned, the apportionment between the agency and the contractor;

(7) Specify the extent, if any, to which the contractor may obtain reinsurance of a portion of the underwriting risk;

(8) Specify the acutarial basis for computation of the capitation fee.

(b) The capitation fee may be renegotiated more often than annually for recipients who are not enrolled at the time of renegotiation or if the renegotiation is required by changes in Federal or State law.

Subpart C—Contracts With HMOs and PHPs: Contract Requirements

General Requirements

§ 434.20 Basic rules.

(a) *Entities eligible for risk contracts for services specified in § 434.21.* A Medicaid agency may enter into a risk contract, for the services specified in § 434.21, only with an entity that—

(1) Is a Federally qualified HMO, including a provisional status Federally qualified HMO;

(2) Meets the State plan's definition of an HMO, as specified in paragraph (c) of this section; or

(3) Is one of several entities identified in section 1903(m)(2)(B) (i), (ii) and (iii) of the Act, and considered as PHPs.

(b) *Entities eligible for other kinds of contracts.* A Medicaid agency may enter into a nonrisk contract, or a risk contract for services other than those specified in § 434.21, with any of the entities identified in paragraph (a) of this section, or with any other PHP.

(c) *State plan definition of HMO.* If the plan provides for risk contracts with entities that are not Federally qualified HMOs, for the services specified in § 434.21, the plan must include a State definition of an HMO. Under the definition, the HMO must meet at least the following requirements:

(1) Be organized primarily for the purpose of providing health care services.

(2) Make the services it provides to its Medicaid enrollees as accessible to them (in terms of timeliness, amount, duration, and scope) as those services are to nonenrolled Medicaid recipients within the area served by the HMO.

(3) Make provision, satisfactory to the Medicaid agency, against the risk of insolvency, and assure that Medicaid enrollees will not be liable for the

HMO's debts if it does become insolvent.

(d) *Services that may be covered.* A contract with an HMO or a PHP may cover services to enrolled recipients that are not provided under the plan to nonenrolled recipients as permitted under § 440.250(g) of this chapter.

(e) *Requirements for all contracts.* For all contracts with HMOs or PHPs—

(1) The contract must meet the requirements of § 434.6; and

(2) The Medicaid agency must carry out the responsibilities specified in Subpart D of this part.

Additional Requirements for Certain Risk Contracts

§ 434.21 Contracts that must meet additional requirements.

Unless otherwise indicated, the additional requirements set forth in §§ 434.23 through 434.38 must be met—

(a) In all non-risk contracts; and

(b) In risk contracts for furnishing inpatient hospital services and any of the following services, or any three or more of the following services or groups of services:

(1) Outpatient hospital services and rural health clinic services.

(2) Other laboratory and X-ray services.

(3) Skilled nursing facility (SNF) services, early and periodic screening, diagnosis and treatment (EPSDT), and family planning.

(4) Physicians' services.

(5) Home health services.

§ 434.23 Capitation fees.

The contract must specify—

(a) The actuarial basis for computation of the capitation fees; and

(b) That the capitation fees and any other payments provided for in the contract do not exceed the payment limits set forth in §§ 447.361 and 447.362 of this chapter.

§ 434.25 Coverage and enrollment.

(a) Contracts with HMOs and PHPs must—

(1) Specify the period during which enrollment may be open;

(2) Provide that the HMO or PHP will accept individuals who are eligible to be covered under the contract—

(i) In the order in which they apply;

(ii) Without restrictions, unless authorized by the Regional Administrator; and

(iii) Up to the limits set in the contract; and

(3) Provide that enrollment is voluntary.

(b) Contracts with HMOs must also provide that the HMO will not discriminate, against individuals eligible to be covered under contract, on the basis of health status or need for health services.

§ 434.26 Composition of enrollment.

(a) *Basic rule.* Except as provided in paragraphs (b) and (c) of this section, the contract must provide that Medicare beneficiaries and Medicaid recipients constitute less than 75 percent of the total enrollment of the HMO or PHP.

(b) *Exceptions: HMOs.*—(1) *Waiver for New HOMs.* The requirement of paragraph (a) of this section may be waived for up to three years from the date the Regional Administrator determines the entity to be an HMO (as provided in § 434.71) if the HMO submits annual reports demonstrating, to the Regional Administrator's satisfaction, that it is making continuous efforts and progress towards achieving compliance with paragraph (a) of this section.

(2) *Waiver for HMOs that are public entities.* The Regional Administrator may approve waiver or modification of the requirement of paragraph (a) of this section, for an HMO that is owned or operated by a State, county, or municipal health department or hospital, if—

(i) There are special circumstances that justify modification or waiver; and

(ii) The HMO has made and continues to make reasonable efforts to enroll individuals who are not eligible for Medicare or Medicaid.

(c) *Exception: Waiver for PHPs.* The Medicaid agency may waive the requirement of paragraph (a) of this section for a PHP that requests waiver and shows good cause.

§ 434.27 Termination of enrollment.

The contract must specify—

(a) The reasons for which the HMO or PHP may terminate a recipient's enrollment;

(b) That the HMO or PHP will not terminate enrollment because of the recipient's health status or need for health care services;

(c) That each termination by the HMO or PHP will be submitted for approval by the agency;

(d) That an HMO enrollee may terminate enrollment at any time, effective no later than the first day of the second month after the month in which he or she requests termination; and

(e) That the HMO will inform each recipient, at the time of enrollment, of the right to terminate enrollment.

§ 434.29 Choice of health professional.

The contract must allow each enrolled recipient to choose his health professional in the HMO or the PHP to the extent possible and appropriate.

§ 434.30 Emergency medical services.

If the contract covers emergency medical services, it must—

(a) Provide that all covered emergency services are available 24 hours a day and 7 days a week, either in the contractor's own facilities or through arrangements, approved by the agency, with other providers; and

(b) Specify whether it is the contractor, or the agency, that will make prompt payment for covered emergency services that are furnished by providers with which the HMO or PHP does not have arrangements if—

(1) Those services were needed because of an unforeseen illness or condition;

(2) Use of the contractor's facilities (or the facilities of providers with whom the contractor has arrangements) would have endangered the recipient's health or caused him severe pain and discomfort.

§ 434.32 Grievance procedure.

The contract must provide for an internal grievance procedure that—

(a) Is approved in writing by the agency;

(b) Provides for prompt resolution; and

(c) Assures the participation of individuals with authority to require corrective action.

§ 434.34 Quality assurance system.

The contract must provide for an internal quality assurance system that:

(a) Is consistent with the utilization control requirements of Part 456 of this chapter;

(b) Provides for review by appropriate health professionals of the process followed in providing health services;

(c) Provides for systematic data collection of performance and patient results;

(d) Provides for interpretation of this data to the practioners; and

(e) Provides for making needed changes.

§ 434.36 Marketing.

The contract must provide that the HMO or PHP submits marketing plans, procedures, and materials to the agency for approval before using the plans.

§ 434.38 Inspection and audit of HMO's financial records.

A risk contract with an HMO must provide that the agency and the Department may inspect and audit any financial records of the HMO or its subcontractors, relating to the HMO's

capacity to bear the risk of potential financial losses.

Subpart D—Contracts with HMOs and PHPs: Medicaid Agency Responsibilities

§ 434.50 Proof of HMO or PHP capability.

The agency must obtain from each contractor proof of—

(a) Financial responsibility, including proof of adequate protection against insolvency; and

(b) The contractor's ability to provide the services under the contract efficiently, effectively, and economically.

§ 434.52 Furnishing of required services.

The agency must obtain assurances from each contractor that—

(a) It furnishes the health services required by enrolled recipients as promptly as is appropriate; and

(b) The services meet the agency's quality standards.

§ 434.53 Periodic medical audits.

(a) The agency must establish a system of periodic medical audits to insure that each contractor furnishes quality and accessible health care to enrolled recipients.

(b) The system of periodic medical audits must—

(1) Provide for audits conducted at least once a year for each contractor;

(2) Identify and collect management data for use by medical audit personnel; and

(3) Provide that the data includes—

(i) Reasons for enrollment and termination; and

(ii) Use of services.

§ 434.55 Approval of marketing plans, procedures, and materials.

(a) The agency must provide for a system for approval of the marketing plans, procedures, and materials submitted by the contractor under § 434.36.

(b) The requirements for approval must be in writing.

(c) The system must provide that the contractor not engage in marketing practices that mislead, confuse, or defraud either recipients or the agency.

§ 434.57 Limit payment to other providers.

The agency must ensure that, except as specified in § 434.30(b) for emergency services, payment for services covered by the contract and furnished to an enrolled recipient is made only to the contractor, not to any other provider.

§ 434.59 Continued service to recipients whose enrollment is terminated.

The agency must arrange for Medicaid services without delay for any recipient whose enrollment is terminated, unless it is terminated because of ineligibility for Medicaid.

§ 434.61 Computation of capitation fees.

The agency must determine that the actuarial basis for computing the capitation fees and any other payments provided for in the contract is sound.

§ 434.63 Monitoring procedures.

The agency must have procedures to—

(a) Monitor enrollment and termination practices; and

(b) Insure proper implementation of the contractor's grievance procedures.

§ 434.65 Services included in the State plan not covered by the contract.

If the contract does not cover all services available under the plan, the agency must arrange for services not included to be available and accessible. This may be done by having the contractor refer enrolled recipients to other providers or by some other means.

Subpart E—Federal Financial Participation

§ 434.70 Condition for FFP: Status of contract.

(a) FFP is available in expenditures for payments to contractors only for the periods that the contract—

(1) Meets the requirements of this part;

(2) Meets the appropriate requirements of 45 CFR Part 74; and

(3) Is in effect.

(b) HCFA may withhold FFP for any period during which—

(1) The State fails to meet the State plan requirements of this part; or

(2) Either party to a contract substantially fails to carry out the terms of the contract.

§ 434.71 Condition for FFP: Prior approval.

(a) FFP is not available in expenditures made under any contract exceeding $100,000 unless, before the execution of the contract, the Regional Administrator has approved in writing the expenditures that can reasonably be expected to be made during the contract period.

(b) FFP is not available in expenditures under an HMO contract unless the agency secured prior written notice from the Regional Administrator, indicating that the contractor meets the definition of an HMO.

§ 434.72 Effect of a final determination that a provisional status HMO is not an HMO.

(a) FFP is available in expenditures for payments to a provisional status HMO until the Public Health Service reaches a final determination that it is not a Federally qualified HMO.

(b) The Public Health Service's determination that the entity with provisional status is not an HMO is not considered final until—

(1) All administrative, but not judicial, appeal procedures are exhausted; or

(2) The time for requesting administrative review has lapsed without a request from the HMO.

§ 434.74 Costs under risk-basis contracts.

Under each contract in which the contractor assumes an underwriting risk, the total amount paid by the agency for carrying out the provisions of the contract is a medical assistance cost.

§ 434.75 Costs under no-risk contracts.

Under each contract in which the contractor assumes no underwriting risk—

(a) The amount paid by the agency for furnishing medical services to eligible recipients is a medical assistance cost; and

(b) The amount paid by the agency for the contractor's performance of other functions is an administrative cost.

§ 434.76 Costs under fiscal agent contracts.

Under each contract with a fiscal agent—

(a) The amount paid to the provider of medical services is a medical assistance cost; and

(b) The amount paid to the contractor for performing the agreed-upon functions is an administrative cost.

§ 434.78 Right to reconsideration of disallowance.

A Medicaid agency dissatisfied with a disallowance of FFP under this subpart may request and will be granted reconsideration in accordance with 45 CFR Part 16.

PART 435—ELIGIBILITY IN THE STATES AND DISTRICT OF COLUMBIA

The authority citation for Part 435 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

Subpart A—Introduction, Definitions, and General Provisions

C. Section 435.3 is amended by reprinting the title and lead-in clause and adding, in numerical order, a new statutory citation of 1902(e)(2), to read as follows:

§ 435.3 Basis.

This part implements the following sections of the Act, which state eligibility requirements and standards.

* * * * *

1902(e)(2) Minimum eligibility period for recipient enrolled in an HMO.

Subpart C—Options for Coverage as Categorically Needy

D. Subpart C of Part 435 is amended by adding a new §435.212 to read as follows:

§ 435.212 Individuals who would be ineligible if they were not enrolled in an HMO.

The agency may provide that a recipient who is enrolled in a Federally qualified HMO (under a risk contract as specified in § 434.20(a)(1) of this chapter) and who becomes ineligible for Medicaid is deemed to continue to be eligible—

(a) For a period specified by the agency, ending no later than 6 months from the date of enrollment; but

(b) Only for benefits provided to him or her as an HMO enrollee.

Subpart D—Optional Coverage of the Medically Needy

E. Subpart D of Part 435 is amended by adding a new § 435.326 to read as follows:

§ 435.326 Individuals who would be ineligible if they were not enrolled in an HMO.

If the agency provides Medicaid to the categorically needy under § 435.212, it may provide Medicaid under the same rules to medically needy recipients who are enrolled in a Federally qualified HMO.

PART 447—PAYMENTS FOR SERVICES

The authority citation for Part 447 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

F. Part 447 is amended by revising § 447.361, reprinting the undesignated heading immediately before it, and adding a new § 447.362, to read as follows:

Prepaid Capitation Plans

§ 447.361 Upper limits of payment: Risk contract.

Under a risk contract, Medicaid payments to the contractor, for a defined scope of services to be furnished to a defined number of recipients, may not exceed the cost to the agency of providing those same services on a fee-for-service basis.

§ 447.362 Upper limits of payment: Nonrisk contract.

Under a nonrisk contract, Medicaid payments to the contractor may not exceed—

What Medicaid would have paid, on a fee-for-service basis, for the services actually furnished to recipients; plus

(b) The net savings of administrative costs the Medicaid agency achieves by contracting with the plan instead of purchasing the services on a fee-for-service basis.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance program)

Dated: July 7, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 20, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27024 Filed 9-29-82; 8:45 am]

BILLING CODE 4120-03-M

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42 CFR Parts 435 and 436

Medicaid Program; State Residency Requirements

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing amendments to the Medicaid regulations that govern State residency requirements for Medicaid eligibility. Specifically, we would revise the residency rule used for residents receiving out-of-State care, and the policy pertaining to medical documentation when an individual is incapable of acknowledging intent to reside. These proposed rules are part of the Department's regulatory reform efforts that are designed to clarify regulations, delete unnecessary or burdensome requirements, and provide maximum flexibility to States while promoting patient health and safety.

DATES: To assure consideration, comments should be submitted by November 29, 1982.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17076, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise 6325 Security Boulevard, Baltimore, Maryland 21207.

In commenting, please refer to file code BPP-512-P.

Comments will be available for public inspection, as they are received, beginning approximately three weeks from today, in Room 309-G of the Department's office at 200 Independence Ave., SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: Marinos Svolos, (301) 594-9050.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicaid program (title XIX of the Social Security Act) provides medical assistance to certain categories of individuals with low income. The program is jointly funded by the State and Federal governments, but is administered by the States. Generally, persons are determined to be eligible for Medicaid under a combination of State and Federal requirements. One requirement relates to State residency. Under section 1902(b)(3) of the Social Security Act, a State may not impose a residency requirement that excludes any individual who resides in the State. Moreover, under section 1902(a)(16) of the Act, States are obligated to furnish medical assistance to eligible individuals who are residents of the State but who are absent from the State.

The current regulations concerning residency (for the various States, the District of Columbia and the Northern Mariana Islands, 42 CFR 435.403; and for Guam, Puerto Rico, and the Virgin Islands, 42 CFR 436.403) were issued on July 17, 1979 and became effective October 15, 1979. The regulations were issued because prior regulations did not address a variety of situations that arise in residency determinations, and were not being interpreted uniformly by the States. Hence, the current regulations are intended to achieve more uniform application of rules on residency and to insure that no eligible individual is denied Medicaid because a State does not recognize him or her as a resident. In addition, the regulations are designed to protect States with adequate medical facilities against the costs of caring for an influx of individuals from States that provide less adequate institutional care.

Despite the clarification provided by the current regulations, States still encounter problems determining residency in situations where an eligible resident receives out-of-State care. This problem is particularly notable with respect to institutionalized individuals because of the expensive cost of care. Members of Congress, States and

recipient representatives have requested that we further clarify the current regulations to allow States to utilize interstate agreements for cases of disputed residency, and for other administrative purposes.

II. Provisions of the Regulations

Generally, we would revise 42 CFR 435.403 and 436.403 to clarify what constitutes State placement of an individual in a medical institution and the policy pertaining to medical documentation for incapability of indicating intent. Technical changes to update cross references and other information would also be made. The simplification of these regulations and revisions to the requirements are part of the Department's regulatory reform efforts.

The current regulations (§§ 435.403(a) and 436.403(a)) state that the agency must provide Medicaid to "otherwise eligible" residents of the State. The phrase was intended to apply to resident individuals who are absent from the State. Therefore, we would amend the regulations to clearly state that the agency must furnish Medicaid to State residents who are absent from the State. A cross reference would be added to inform States of the conditions under which they are responsible for paying for out-of-State care.

We would add a new paragraph to define the term "institution" for State residency purposes. The term would have the same meaning as that provided in 42 CFR 435.1009 for purposes of determining the conditions under which Federal financial participation (FFP) is available for persons in public institutions.

One widespread problem with these regulations concerns findings of incompetency. Documentation of competency acceptable to one State may not be acceptable to another State. Since a finding of incompetency has an impact on establishing the State of residence (especially for the institutionalized), States would have difficulty in resolving a disputed case of residency requiring evaluation of the individual's intent to reside in a State if they cannot agree whether or not an individual is incompetent. Therefore, we would revise the current regulations to allow only medical documentation from a physician, psychologist, or other person licensed by the State in the field of medical retardation to serve as evidence that an individual is incapable of acknowledging intent to reside. This revision would decrease instances of disagreements between States concerning acceptable documentation and would help resolve cases of disputed residency. It also would eliminate the possibility of documentation by a nonprofessional that may not be valid.

States have identified two problems concerning State placement of individuals in mental institutions. First, under current regulations it is unclear which State has the authority to make a placement. Second, it is unclear what actions constitute State placement. Under current regulations, if a State arranges for placement in a facility in another State, the State making the placement is the individual's State of residence, irrespective of the individual's indicated intent or ability to indicate intent. The current regulations were written in this manner so there would be no question of responsibility for payment of care. Although most States favor this approach, they would like the regulations to be more specific as to what constitutes "State placement." Since most States want to retain the "State placement" rule so long as it is clarified, we are proposing to revise the regulations to meet the State's needs without requiring interstate agreements. The proposal defines State placement, and identifies certain agencies as acting for the State. In addition, we believe that Medicaid recipients and their families would also benefit from this revision because they would be assisted by States in obtaining placements.

We would also revise the regulations to make the State of residence for an institutionalized individual who is under 21 or became incompetent before age 21, the State in which the parents or legal guardian lived at the time of placement or the parents' or legal guardians' current State of residence, if the individual is institutionalized in that State. Under the current regulations (§§ 435.403(g)(3), 436.403(f)(3)), the State of residence of these individuals is that of the parents or legal guardian (or if the parents reside in separate States, the parent that applies for Medicaid). However, in some cases, institutionalized individuals do not live in the parents' State. Hardship situations have arisen where an individual who has lived in a particular institution all his life is determined to be a resident of another State because the parents moved. As a result, the institutionalized individual is taken from a familiar environment and placed in a new institution in the parents' State of residence. Since such a move can be detrimental to the individual, guardianship appointments are frequently sought by institutional personnel if parents do not live in the State and do not wish to move the individual, or when the parents' State of residence does not offer the needed services. In addition, some States have objected to being responsible for reimbursement for services provided to individuals in institutions in other States. The proposed revision (§§ 435.403(h)(3), 436.403(g)(3)) would alleviate these problems by adopting a more flexible policy under which residency would not always be based on the parents' or guardians' current State of residence. This revision would also ease administrative burden on States because the State would not have to make a new residency determination as required under current regulations when a parent moves to another State.

Sections 435.403(h)(4) and 436.403(g)(4) would be revised to state that individuals under age 21 who are married or who have been emancipated from parental control under State law are also residents of the State in which they are institutionalized.

Last, we would revise the regulations to allow States the option to use interstate agreements for administrative purposes in other than cases of disputed residency. Some States have entered into reciprocal agreements whereby each State agrees to treat the other State's residents as residents of their own. For example, Georgia will recognize any California resident who is in a Georgia institution as a Georgia resident and California reciprocates. This type of agreement was not contemplated by the current regulation since these are not cases of disputed residency but of States' reciprocal agreements for the purpose of administrative ease. To facilitate administration of the program and to provide maximum State flexibility, we would make a technical change to the regulations to allow States the option of using interstate agreements for purposes of facilitating administration of the program as well as for purposes of resolving residency disputes.

III. Impact Analyses

A. Executive Order 12291

The Secretary has determined that the proposed regulations do not meet the criteria for a "major rule" as defined by section 1(b) of Executive Order 12291. That is, the proposed regulations will not—

- Have an annual effect on the economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies, or any geographic regions; or

• Have significant adverse effects on competition; employment, investment, productivity, innovation; or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

Since we are proposing to clarify provisions already in effect, there would be no change in the current Medicaid expenditures with respect to the affected individuals. We believe that the total annual administrative costs to the Federal and State governments resulting from the regulations would be minor.

B. Regulatory Flexibility Act

The Secretary certifies, under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354) that the proposed regulations will not have a significant economic impact on a substantial number of small businesses, non-profit entities or small local governments.

As defined by the Regulatory Flexibility Act, the term "small entities" includes "small governmental jurisdictions". The latter term is defined as local governments (cities, counties, towns, townships, villages, school districts, or other special districts) with a population of less than fifty thousand persons. State governments are not included in this definition.

As explained previously, these proposed regulations would clarify the definitions of State residency and incompetency, and would make technical changes to requirements for State placement. Although we are uncertain of the number of institutions or beneficiaries that might be affected by these regulations, we do not believe that the number will be substantial nor the effect economically significant. We intend that these revisions have only an advantageous effect on the State agencies.

IV. Response to Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and respond to them in the preamble to that rule.

List of Subjects

42 CFR Part 435

Aid to Families with Dependent Children, Aliens, Categorically needy, Contracts (agreements—State plan), Eligibility, Grant-in-Aid program—health, Health factilities, Medicaid, Medically needy, Reporting requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 436

Aid to Families with Dependent Children, Aliens, Contracts (agreements), Eligibility, Grant-in-Aid program—health, Guam, Health facilities, Medicaid, Puerto Rico, Supplemental security income (SSI), Virgin Islands.

42 CFR Parts 435 and 436 are amended as set forth below:

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA AND THE NORTHERN MARIANA ISLANDS

The authority citation for Part 435 reads as follows:

Authority.—Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

1. Section 435.403 is revised to read as follows:

§ 435.403 State residence.

(a) *Requirement.* The agency must provide Medicaid to eligible residents of the State, including residents who are absent from the State. The conditions under which payment for services is provided to out-of-State residents are set forth in § 431.52 of this chapter.

(b) *Definition.* For purposes of this section—"Institution" has the same meaning as "Institution" and "Medical institution", as defined in § 435.1009 of this chapter, and for purposes of State placement, the term also includes foster care homes providing food, shelter and supportive services to one or more persons unrelated to the proprietor.

(c) *Incapability of indicating intent.* For purposes of this section, an individual is considered in capable of indicating intent if the individual—

(1) Has an I.Q. of 49 or less or has a mental age of 7 or less, based on tests acceptable to the mental retardation agency in the State;

(2) Is judged legally incompetent; or

(3) Is found incapable of indicating intent based on medical documentation obtained from a physician, psychologist, or other person licensed by the State in the field of mental retardation.

(d) *Who is a State resident.* A resident of a State is any individual who:

(1) Meets the conditions in paragraphs (e) through (h) of this section; or

(2) Meets the criteria specified in an interstate agreement under paragraph (j) of this section.

(e) *Placement by States in an out-of-State institution.* Any agency of the State, including an entity under contract with the State for such purposes, that arranges for an individual to be placed in an institution located in another State, is recognized as acting on behalf of the State in making a placement. The State making the placement is considered as the individual's State of residence, irrespective of the individual's indicated intent or ability to indicate intent.

(f) *Individuals receiving a State supplementary payment (SSP).* For any individual who is receiving an SSP, the State of residence is the State paying the SSP.

(g) *Non-institutionalized individual.* (1) For any non-institutionalized individual under age 21 whose Medicaid eligibility is based on blindness or disability, the State of residence is the State in which the individual is living.

(2) For any other non-institutionalized individual under age 21, the State of residence is determined in accordance with 45 CFR 233.40, the rules governing residence under the AFDC program.

(3) For any non-institutionalized individual over age 21, the State of residence is the State where the individual is—

(i) Living with the intention to remain there permanently or for an indefinite period (or if incapable of stating intent, where the individual is living); or

(ii) Living and which the individual entered with a job commitment or seeking employment (whether or not currently employed).

(h) *Institutionalized individuals.* (1) Under both paragraphs (h) (2) and (3) of this section the State where the institution is located is the individual's State of residence unless that State determines that the individual is a resident of another State, by applying the rules under paragraphs (h) (2) and (3).

(2) For any institutionalized individual who became incapable of indicating intent at or after age 21, the State of residence is the State in which the individual is physically present, except where another State makes a placement.

(3) For any institutionalized individual who is under age 21, or who is age 21 or older, and became incapable of indicating intent before age 21, the State of residence is—

(i) The parents' or legal guardian's State of residence at the time of placement; or

(ii) The parents' or legal guardian's current State of residence, if the individual is institutionalized in that State.

(4) For any other institutionalized individual age 21 or older, and individuals under 21 who are emancipated from their parents or who are married, the State of residence is the

State where the individual is living with the intention to remain there permanently or for an indefinite period.

(i) *Specific prohibitions.* (1) The agency may not deny Medicaid eligibility because an individual has not resided in the State for a specified period.

(2) The agency may not deny Medicaid eligibility to an individual in an institution, who satisfies the residency rules set forth in this section, on the ground that the individual did not establish residence in the State before entering the institution.

(3) The agency may not deny or terminate a resident's Medicaid eligibility because of that person's temporary absence from the State if the person intends to return when the purpose of the absence has been accomplished, unless another State has determined that the person is a resident there for purposes of Medicaid.

(j) *Interstate agreements.* A State may have a written agreement with another State setting forth rules and procedures resolving cases of disputed residency. These agreements may establish criteria other than those specified in paragraph (c) through (h) of this section, but must not include criteria that result in loss of residency in both States or that are prohibited by paragraph (i) of this section. The agreements must contain a procedure for providing Medicaid to individuals pending resolution of the case. States may use interstate agreements for purposes other than cases of disputed residency to facilitate administration of the program.

(k) *Continued Medicaid for institutionalized recipients.* If, on June 23, 1982, an agency is providing Medicaid to an institutionalized recipient who, as a result of this section, would be considered a resident of a different State—

(1) The agency must continue to provide Medicaid to that recipient until June 23, 1983 unless it makes arrangements with another State of residence to provide Medicaid at an earlier date; and

(2) Those arrangements must not include provisions prohibited by paragraph (i) of this section.

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

The authority citation for Part 436 reads as follows:

Authority:—Section 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. Section 436.403 is revised to read as follows:

§ 436.403 State residence.

(a) *Requirement.* The agency must provide Medicaid to eligible residents of the State, including residents who are absent from the State. The conditions under which payment for services is provided to out-of-State residents are set forth in § 431.52 of this chapter.

(b) *Definition.* For purposes of this section—"Institution" has the same meaning as "Institution" and "Medical institution", as defined in § 435.1009 of this chapter, and for purposes of State placement, the term also includes foster care homes providing food, shelter and supportive services to one or more persons unrelated to the proprietor.

(c) *Incapability of indicating intent.* For purposes of this section, an individual is considered incapable of indicating intent if the individual—

(1) Has an I.Q. of 49 or less or has a mental age of 7 or less, based on tests acceptable to the mental retardation agency in the State;

(2) Is judged legally incompetent; or

(3) Is found incapable of indicating intent based on medical documentation obtained from a physician, psychologist, or other person licensed by the State in the field of mental retardation.

(d) *Who is a State resident.* A resident of a State is any individual who:

(1) Meets the conditions in paragraphs (e) through (g) of this section; or

(2) Meets the criteria specified in an interstate agreement under paragraph (i) of this section.

(e) *Placement by States in an out-of-State institution.* Any agency of the State, including an entity under contract with the State for such purposes, that arranges for an individual to be placed in an institution located in another State, is recognized as acting on behalf of the State in making a placement. The State making the placement is the individual's State of residence, irrespective of the individual's indicated intent or ability to indicate intent.

(f) *Non-institutionalized individuals.* (1) For any non-institutionalized individual under age 21, the State of residence is determined in accordance with 45 CFR 233.40, the rules governing residence under the AFDC program.

(2) For any other individual over age 21, the State of residence is the State where the individual is—

(i) Living with the intention to remain there permanently or for an indefinite period (or if incapable of stating intent, where the individual is living); or

(ii) Living and which the individual entered with a job commitment or seeking employment (whether or not currently employed).

(g) *Institutionalized individuals.* (1) Under both paragraphs (g) (2) and (3) of this section, the State where the institution is located is the individual's State of residence unless that State determines that the individual is a resident of another State, by applying the rules under paragraphs (g) (2) and (3).

(2) For an institutionalized individual who became incapable of indicating intent at or after age 21, the State of residence is the State in which the individual is physically present, except where another State makes a placement.

(3) For any institutionalized individual who is under age 21, or who is age 21 or older, and became incapable of indicating intent before age 21, the State of residence is—

(i) The parents' or legal guardian's State of residence at the time of placement; or

(ii) The parents' or legal guardian's current State of residence, if the individual is institutionalized in that State.

(4) For any other institutionalized individual age 21 or older, and individuals under 21 who are emancipated from their parents or who are married, the State of residence is the State where the individual is living with the intention to remain there permanently or for an indefinite period.

(h) *Specific prohibitions.* (1) The agency may not deny Medicaid eligibility because an individual has not resided in the State for a specified period.

(2) The agency may not deny Medicaid eligibility to an individual in an institution, who satisfies the residency rules set forth in this section, on the grounds that the individual did not establish residence in the State before entering the institution.

(3) The agency may not deny or terminate a resident's Medicaid eligibility because of that person's temporary absence from the State if the person intends to return when the purpose of the absence has been accomplished, unless another State has determined that the person is a resident there for purposes of Medicaid.

(i) *Interstate agreements.* A State may have a written agreement with another State setting forth rules and procedures resolving cases of disputed residency. These agreements may establish criteria other than those specified in paragraphs (c) through (g) this section, but most not include criteria that result in loss of residency in both States or that are prohibited by paragraph (h) of this section. The agreements must contain a procedure for providing Medicaid to individuals pending resolution of the case. States may use interstate

agreements for purposes other than cases of disputed residency to facilitate administration of the program.

(j) *Continued Medicaid for institutionalized recipients.* If, on June 23, 1982, an agency is providing Medicaid to an institutionalized recipient who, as a result of this section, would be considered a resident of a different State—

(1) The agency must continue to provide Medicaid to that recipient until June 23, 1983 unless it makes arrangements with another State of residence to provide Medicaid at an earlier date; and

(2) Those arrangements must not include provisions prohibited by paragraph (h) of this section.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance)

Dated: July 16, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 3, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27025 Filed 9-29-82; 8:45 am]

BILLING CODE 4120-03-M

Office of the Secretary

45 CFR Part 5b

Privacy Act; Exempt Record System

AGENCY: Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Inspector General of the Department of Health and Human Services is, by separate **Federal Register** notice, proposing to establish a new system of records entitled "Civil and Administrative Investigative Files of the Inspector General, HHS/OS/OIG". The Department intends to exempt this system from certain provisions of the Privacy Act, 5 U.S.C. 552a. The proposed exemption is authorized by subsection (k)(2) of the Privacy Act, which applies to investigative materials compiled for law enforcement purposes. The Office of Inspector General (OIG) is authorized to gather information for civil and administrative law enforcement purposes under Pub. L. 94-505, establishing the HHS Office of Inspector General, and section 1128A of the Social Security Act, authorizing civil money penalties for the filing of false claims in certain health care financing programs. In order to maintain the integrity of the OIG investigative process and to assure that the OIG will be able to obtain access to complete and accurate information, the Department proposes to exempt this system, under subsection (k)(2), from the notification, access, correction and amendment provisions of the Privacy Act. The Department is requesting public comments on the proposed exemption.

DATES: Comments are due on or before November 1, 1982.

ADDRESS: Comments should be addressed to Richard McGowan, Public Affairs Officer, Office of Inspector General, Department of Health and Human Services, Room 5267 North Building, 330 Independence Avenue, SW., Washington, D.C. 20201. Comments received will be available for inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Richard McGowan, Public Affairs Officer, Office of Inspector General, Department of Health and Human Services, at the above address or call (202) 472-3142.

SUPPLEMENTARY INFORMATION: The Office of Inspector General is expanding its responsibilities in the area of civil and administrative investigations involving DHHS programs and operations. This requires the establishment of a records system to document the investigations which will be conducted by the OIG or other investigative agencies; to improve the tracking of reviews conducted because of allegations and complaints received by DHHS or other agencies concerning DHHS programs, or current or former HHS personnel; to improve the reporting of the results of civil and administrative investigations to other components of the Department for their use in operating and evaluating their programs; and to assist in civil and administrative proceedings, including proceedings under section 1128A of the Social Security Act (establishing civil monetary penalties in the Medicare, Medicaid, and Maternal and Child Health programs).

This system will contain sensitive investigative records, the release of which could impede on-going investigations, violate the privacy rights of individuals other than the subjects of the investigations, reveal the identities of confidential sources, or otherwise impair the ability of the Office of Inspector General to conduct civil and administrative investigations. For these reasons, the Department proposes to exempt this system, under subsection (k)(2) of the Privacy Act, from the notification, access, correction and amendment provisions of the Privacy Act.

The proposed exemption does not meet the standards set forth in Executive Order 12291 for classification as a major rule, and no regulatory analysis statement is required.

The Secretary certifies that the proposed exemption will not have a significant impact on any substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354.

List of Subjects in 45 CFR Part 5b

Privacy.

For the reasons set out in the preamble it is proposed that the Department's Privacy Act Regulations, Part 5b of 45 CFR Subtitle A, be amended as follows:

PART 5b—PRIVACY ACT REGULATIONS

1. By adding paragraph (b)(2)(ii)(D) as follows:

§ 5b.11 Exemptions.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(D) Civil and Administrative Investigative Files of the Inspector General, HHS/OS/OIG.

(5 U.S.C. 552a)

Dated: September 10, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-26975 Filed 9-29-82; 8:45 am]

BILLING CODE 4150-04-M

Notices

Federal Register
Vol. 47, No. 190
Thursday, September 30, 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

Information Collection Request Under Review

This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

Background:

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

Information About This Proposed Collection:

Agency Clearance Officer—Richard D. English—202–254–8501.

Agency Address: ACTION, 806 Connecticut Ave., NW., Washington, D.C. 20525.

Title of Form: The President's Volunteer ACTION Awards.

Office of ACTION Issuing Proposal: Office of Policy and Planning.

Agency Official to Contact for Further Information: Mark Blitz, Assistant Director.

Type of Request: New.

Frequency of Collection: Annually.

General Description of Respondents: Individuals or Groups involved in private or federally sponsored volunteer activities.

Estimated Number of Responses: 2,500.

Estimated Hours for All Respondents to Complete Form: 2,500.

Respondent's Obligation to Reply: Voluntary.

This is not a collection proposal under Section 3504 (h) of the Paperwork Reduction Act. Person responsible for OMB Review: James L. Thomas, 202–395–6880.

Richard D. English,

Deputy Assistant Director, ACTION.

[FR Doc. 82–27015 Filed 9–29–82; 8:45 am]

BILLING CODE 6050–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Advisory Committee on Foreign Animal and Poultry Diseases Meeting; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases: Correction.

SUMMARY: The purpose of this document is to give notice that the meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases announced in the **Federal Register** issue of Friday, September 3, 1982, appearing on page 38955 (FR Doc. 82–24395) is extended by one day to October 14, 1982.

PLACE, DATE, AND TIME OF MEETING: FR Doc. 82–24395 appearing on page 38955 in the issue of Friday, September 3, 1982 inadvertently announced that the meeting would be held on October 13, 1982, instead of stating the meeting would be held on October 13, 1982, and October 14, 1982. The meeting will take place in Room 743A Federal Building, United States Department of Agriculture, Hyattsville, Maryland 20783, October 13, 1982 from 9:00 a.m. to 4:00 p.m. and October 14, 1982 from 9:00 a.m. to 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Harless McDaniel, Chief Staff Officer, Technical Support, APHIS, VS, Federal Building, Room 757, Hyattsville, Maryland 20783, 301–436–8087.

Harry C. Mussman,

Administrator.

[FR Doc. 82–27004 Filed 9–29–82; 8:45 am]

BILLING CODE 3410–34–M

Office of Rural Development Policy

National Advisory Council on Rural Development, Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of a meeting of the National Advisory Council on Rural Development. The meeting will be held on October 12–14, 1982, at the Lakeway Inn, 101 Lakeway Drive, Village of Lakeway, Austin, Texas 78734. The Council will convene at 1:00 p.m. on October 12th.

The purpose of the meeting will be to make final proposals and recommendations on a national rural development strategy.

The meeting will be open to the public as space allows. In order to provide opportunity for the public to comment on the work of the Council, written statements will be received 2 weeks prior to and 2 weeks following the meeting. Due to the press of business, however, public participation will be limited to written statements. Views and comments will be addressed in writing, and, when deemed appropriate by the Cochairman, may be addressed orally at the next meeting of the Council.

Written comments, both prior to and following the meeting, should be addressed to: Mr. Willard (Bill) Phillips, Jr., Director, Office of Rural Development Policy, Room 4128–S, United States Department of Agriculture, 12th and Independence SW., Washington, D.C 20250, (202) 382–0044.

Dated: September 24, 1982.

Willard (Bill) Phillips,

Director, Office of Rural Development Policy.

[FR Doc. 82–26905 Filed 9–29–82; 8:45 am]

BILLING CODE 3410–07–M

Office of Director for Science and Education

Animal Health Science Research Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, Pub. L. 92–463, Science and Education announces the following meeting:

Name: Animal Health Science Research Advisory Board.
Date: November 2–3, 1982.
Time: 8:30 a.m.
Place: Room 104–A, Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250.
TYPE OF MEETING: Open to the public. Persons may participate in the meeting as time and space permit.
COMMENTS: The public may file written comments before or after the meeting with the contact person below.
PURPOSE: The Board will consult with and advise the Secretary of Agriculture on implementing animal health and disease research programs. Recommendations will be made also on priorities of research in these programs.
BOARD NAMES AND AGENDA: Available from contact person below.
CONTACT PERSON: Earl J. Splitter, Executive Secretary, Animal Health Science Research Advisory Board, Cooperative State Research Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–5007.

Done at Washington, D.C., this 13th day of September 1982.

T. B. Kinney, Jr.,

Acting Assistant Secretary, Science and Education.

[FR Doc. 82–26804 Filed 9–29–82; 8:45 am]
BILLING CODE 3410–03–M

Office of the Secretary

Detrrmination of the Market Stabilization Price for Sugar for Fiscal Year 1983

AGENCY: Agriculture Department.
ACTION: Notice.

SUMMARY: This notice sets forth the market stabilization price for sugar for the period October 1, 1982–September 30, 1983. The market stabilization price was announced as 20.73 cents per pound on September 1, 1982 by the Secretary of Agriculture.

EFFECTIVE DATE: October 1, 1982
FOR FURTHER INFORMATION CONTACT: James Truran, Telephone: (202) 447–2916.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 4940 of May 5, 1982 (47 FR 19657) established a market stabilization price for sugar for May 11, 1982–September 30, 1982 of 19.88 cents. The market stabilization price is the sum of (1) the price support level for the applicable fiscal year expressed in cents per pound of raw cane sugar; (2) adjusted average transportation costs; (3) interest cost, if applicable; and (4) 0.2 cent. The adjusted average transportation costs are the weighted average costs of handling and transporting domestically produced raw cane sugar from Hawaii to gulf and Atlantic Coast ports, as determined by the Secretary. Interest costs shall be the amount of interest, as determined or estimated by the Secretary, that would be required to be paid by a recipient of a price support loan for raw cane sugar upon repayment at full maturity. Interest costs are only applicable if a price support loan recipient is not required to pay interest upon forfeiture of the loan collateral.

The proclamation also requires the Secretary of Agriculture to announce the market stabilization price applicable to each subsequent fiscal year no later than 30 days prior to the beginning of the fiscal year for which such market stabilization price is applicable. The Secretary made this announcement on September 1, 1982.

The proposed rule for the price support loan program for sugar was published in the **Federal Register** July 29, 1982. Comments on the proposed rule were received through August 25. The comments received have been considered and the Secretary of Agriculture has determined that the applicable loan rate expressed in cents per pound for raw cane sugar shall be 17.0 cents per pound. Furthermore, it has been determined that a loan recipient will not be required to pay interest upon forfeiture of the loan collateral.

Accordingly, after appropriate review, it has been determined that the market stabilization price for fiscal year 1983 shall be 20.73 cents per pound. This consists of the 17.0 cent loan rate; adjusted average transportation costs of 2.66 cents; an interest cost of 0.87 cent; and 0.2 cent per pound. The transportation factor represents data for the most recent year with complete data available, 1981, adjusted to 1983 by applying a projected increase in the Producer Price Index for finished goods over this time. The interest factor is based on an estimated average interest rate of 10.25 percent over the year, and a six month loan maturity period.

Notice

Notice is hereby given that in conformity with the provisions of paragraph c of Headnote 4 of part 3 of the Appendix to the Tariff Schedules of the United States, the market stabilization price for sugar for fiscal year 1983 has been determined to be 20.73 cents per pound.

Dated: September 27, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82–27005 Filed 9–29–82; 8:45 am]
BILLING CODE 3410–10–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee of the American Economic Association; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, as amended by Pub. L. 94–409), notice is hereby given that the Census Advisory Committee of the American Economic Association will convene on October 22, 1982, at 9:15 a.m. in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee of the American Economic Association advises the Director, Bureau of the Census, on technical matters, accuracy levels, and conceptual problems concerning the economic censuses; reviews major aspects of the Bureau's programs; and advises on the role of analysis within the Bureau and the need for providing data in more detail.

The Committee is composed of 15 members of the American Economic Association.

The agenda for the meeting, which is scheduled to adjourn at 3:45 p.m., is: (1) Introductory remarks by the Director. Bureau of the Census, including staff changes and major budget program developments; (2) election of chairperson-elect; (3) income imputation processing; (4) concurrent seasonal adjustment; (5) gross labor force flows date; (6) industrial data for economic analysis; (7) status report on inventory improvement project; (8) update on 1990 census; (9) Committee recommendations; and (10) plans and date for the nest meeting.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statement must be submittee in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. Thomas L. Mesenbourg, Bureau of the

Census, Room 2102C, Federal Building 4, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (303) 763–7800.

Dated: September 27, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82–26933 Filed 9–29–82; 8:45 am]

BILLING CODE 3510–07–M

Foreign-Trade Zone Board

[Order No. 196]

Approval for Expansion of Foreign-Trade Zone No. 54, Clinton County, New York, Adjacent to the Champlain-Rouses Point Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Clinton County Area Development Corporation on behalf of Clinton County, New York, Grantee of Foreign-Trade Zone No. 54, has applied to the Board for authority to expand its general-purpose zone located in Plattsburgh and Champlain, New York, to include 101 acres at the Clinton County Air Industrial Park in Plattsburgh, adjacent to the Champlain-Rouses Point Customs port of entry;

Whereas, the application was accepted for filing on September 25, 1981, and notice inviting public comment was given in the **Federal Register** on October 9, 1981 (46 FR 50091);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to provide zone services to new tenants whose operations cannot be accommodated within existing zone space; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed September 25, 1981. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 23rd day of September 1982.

Malcolm Baldrige,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82–26868 Filed 9–29–82; 8:45 am]

BILLING CODE 3510–25–M

[Order No. 197]

Approval for Expansion of Foreign-Trade Zone No. 51, Duluth, Minnesota, Within the Duluth Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Seaway Port Authority of Duluth, Grantee of Foreign-Trade Zone No. 51, has applied to the Board for authority to expand its general-purpose zone located in Duluth's marine terminal area, to include a 29-acre site at the Airpark Industrial Park adjacent to Duluth International Airport, within the Duluth Customs port of entry;

Whereas, the application was accepted for filing on December 2, 1981, and notice inviting public comment was given in the **Federal Register** on December 10, 1981 (46 FR 60485);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to provide zone services to new tenants whose operations cannot be accommodated within existing zone space; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed December 2, 1981. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 23rd day of September 1982.

Malcolm Baldrige,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82–26869 Filed 9–29–82; 8:45 am]

BILLING CODE 3510–25–M

[Order No. 198]

Approval for Expansion of Foreign-Trade Zone No. 64, Jacksonville, Florida, Within the Jacksonville Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Jacksonville Port Authority, Grantee of Foreign-Trade Zone No. 64, has applied to the Board for authority to expand its general-purpose zone adjacent to Jacksonville International Airport, to include an existing warehouse located at 2001 North Ellis Road, Jacksonville, within the Jacksonville Customs port of entry;

Whereas, the application was accepted for filing on January 12, 1982, and notice inviting public comment was given in the **Federal Register** on January 20, 1982 (47 FR 2897);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the temporary site is necessary to provide zone services for the Jacksonville area until permanent facilities are developed; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed January 12, 1982. The Grantee shall notify the Executive Secretary of the Board for approval prior

to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 23rd day of September 1982.

Malcolm Baldrige,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-26870 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-25-M

[Order No.199]

Approval for Expansion of Foreign-Trade Zone No. 57, Mecklenburg County, North Carolina, Within the Charlotte Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the North Carolina Department of Commerce, Grantee of Foreign-Trade Zone No. 57, has applied to the Board for authority to expand its general-purpose zone located on 5 acres in Mecklenburg County to include a nearby industrial park covering 85 acres in the Arrowood industrial development, within the Charlotte Customs port of entry;

Whereas, the application was accepted for filing on February 18, 1982, and notice inviting public comment was given in the **Federal Register** on February 26, 1982 (47 FR 8392);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to provide zone services to new tenants whose operations cannot be accommodated within existing zone space; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed February 18, 1982. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 23rd day of September 1982.

Malcolm Baldrige,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-26871 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue N.W., Washington, D.C. 20230.

Docket No. 82–00244. Applicant: The University of Texas at Dallas, Biology Program, Box 688, Richardson, TX 75080. Instrument: Electron Microscope, Model EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See Notice on page 32180 in the **Federal Register** of July 26, 1982. Application received by Commissioner of Customs: June 17, 1982.

Docket No. 82–00245. Applicant: The Johns Hopkins Hospital, 600 North Wolfe Street, Baltimore, MD 21205. Instrument: Electron Microscope, Model JEM–100S and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See Notice on page 32181 in the **Federal Register** of July 26, 1982. Instrument Ordered: June 3, 1982.

Docket No. 82–00247. Applicant: University of Wisconsin-Madison, Materials Science Center, 1115 Engineering Research Building, 1500 Johnson Drive, Madison, WI 53706. Instrument: Scanning Transmission Electron Microscope, Model JEM 200CX. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See Notice on page 33527 in the **Federal Register** of August 3, 1982. Instrument ordered: April 21, 1982.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each instrument described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-26865 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-25-M

Michigan Molecular Institute; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15

CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82–00001. Applicant: Michigan Molecular Institute, 1910 West St., Andrews Road, Midland, MI 48640. Instrument: Nuclear Magnetic Resonance Spectrometer, Model WM–360 and Accompanying Accessories. Manufacturer: Bruker-Physik AG, West Germany. Intended use of instrument: See Notice on page 56633 in the **Federal Register** of November 18, 1981.

Comments: Comments dated December 21, 1981 had been received from the Intermagnetics General Corporation (IGC) reflecting the statement (in answer to Question 9 of the application form) that there are no domestic manufacturers of 8.5T magnets. IGC claims it has produced a number of NMR quality magnet systems including a 9T system delivered to Cornell University and a 14.1T system delivered to Carnegie Mellon University. IGC believes that a combination of a Nicolet spectrometer and IGC magnet system would, in fact, provide a capability similar to that of the Bruker system ultimately purchased. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used was being manufactured in the United States at the time the foreign instrument was ordered (December 22, 1980). Reasons: The foreign instrument provides a decoupler suitable for performing the cross relaxation experiment which requires the capability of switching both the irradiation frequency and power level so that the labile proton resonance and the water resonance are alternately irradiated for short time periods and at different power levels in the period prior to the sampling pulse. We are advised by the Department of Health and Human Services (DHHS) in its memorandum dated June 17, 1982 that the capability of the foreign instrument described above is pertinent to the applicant's intended uses and the most closely comparable domestic instrument, the Nicolet Model 360, did not offer the cross relaxation capability at the time of purchase. For these reasons, we find the Nicolet Model 360 was not of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument is intended to be used at the time the foreign-instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as the foreign instrument is intended to be used which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82–26867 Filed 9–29–82; 8:45 am]

BILLING CODE 3510–25–M

New York State Police Crime Laboratory; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00196. Applicant: New York State Police Crime Laboratory, Building No. 22, State Campus, Albany, New York 12226. Article: Video Spectral Comparator and Accessory. Manufacturer: Foster & Freeman Ltd., United Kingdom. Intended use of instrument: See Notice on page 27389 in the **Federal Register** of June 24, 1982.

Comments: No comments have been received with respect to this application. Decision: Application denied. Because the instrument possesses no scientific value for the purposes for which it is intended, a prima facie case is not presented upon which to base a finding of scientific equivalency. Reasons: To qualify for duty-free entry under item 851.60, an applicant must show that it intends to use the foreign instrument in either scientific research or formal science-oriented education. Item 851.60 and the preceding superior heading read as follows:

Articles entered for the use of any non-profit institution, whether public or private, established for educational or scientific purposes:

851.60 Instruments and apparatus, if no instrument or apparatus *of equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used* is being manufactured in the United States (emphasis added, see headnote 6 to this part).

Thus, Congress clearly presumed that an instrument must have at least some "scientific value for the purposes for which the instrument or apparatus is intended to be used" to be eligible for duty-free entry under item 851.60. Unless an applicant actually intends that the instrument will be used either in scientific research or science-oriented education, the required scientific equivalency determination would be meaningless.

Thus, in order to make the determination of scientific equivalency, it is clear that some scientific use for the foreign instrument, whether educational or research, must be intended. Although the foreign instrument falls within the tariff items eligible for duty-free entry consideration, it is intended to be used in the Police Laboratory in the detection of alterations, erasers, substitutions in evidential material, in the deciphering of charred documents, and in viewing obliberated text. In connection with this use the scientific consultants at the National Bureau of Standards (NBS) advise in a memorandum dated August 11, 1982, that the foreign instrument does not qualify for duty-free entry under Pub. L. 89–651 [Item 851.60, TSUS] because the application does not relate to any scientific or educational purposes. In view of the intended use of the instrument, and the above stated requirements of Pub. L. 89–651, the Department cannot make the finding on scientific equivalency upon which duty-free entry must be conditioned. Therefore, the application is denied.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Program Staff.

[FR Doc. 82–26864 Filed 9–29–82; 8:45 am]

BILLING CODE 3510–25–M

Stanford University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15

CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81–00213. Applicant: Stanford University, 851 Welch Road, Palo Alto, CA 94304. Article: Tritium Meter with Accessories. Manufacturer: Hughes Whitlock, Ltd., United Kingdom. Intended use of instrument: See Notice on page 31467 in the **Federal Register** of June 16, 1982.

Comments: No comments have been received with respect to this application. Decision: Application denied. Because the instrument possesses no scientific value for the purposes for which it is intended, a prima facie case is not presented upon which to base a finding of scientific equivalency. Reasons: To qualify for duty-free entry under item 851.60, an applicant must show that it intends to use the foreign instrument in either scientific research or formal science-oriented education. Item 851.60 and the preceding superior heading read as follows:

Articles entered for the use of any non-profit institution, whether public or private, established for educational or scientific purposes:

851.60 Instruments and apparatus, if no instrument or apparatus of equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used is being manufactured in the United States (see headnote 6 to this part).

Thus, Congress clearly presumed that an instrument must have at least some "scientific value for the purposes for which the instrument or apparatus is intended to be used" to be eligible for duty-free entry under item 851.60. Unless an applicant actually intends that the instrument will be used either in scientific research or science-oriented education, the required scientific equivalency determination would be meaningless.

Thus, in order to make the determination of scientific equivalency, it is clear that some scientific use for the foreign instrument, whether educational or research, must be intended. Although the foreign instrument falls within the tariff items eligible for duty-free entry consideration, it is intended to be used to conduct assays for radioactive contamination resulting from the use of radioactive biochemicals in research and teaching laboratories throughout the applicant University. It is not being used for a specific experiment or to obtain scientific knowledge (e.g., on the effects of radiation) but it is support equipment or a safety device, not unlike a badge that measures exposure to radiation, or an alarm system triggerd by radiation. In connection with this use our scientific consultants at the National Bureau of Standards (NBS) advise in their memorandum dated October 8, 1981 that the foreign instrument does not qualify for duty-free entry under Pub. L. 89–651 [Item 851.60, TSUS] for the apparent intended use. In view of the intended use of the instrument, and the above stated requirements of Pub. L. 89–651, the Department cannot make the finding on scientific equivalency upon which duty-free entry must be conditioned. Therefore, the application is denied.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82–26863 9–29–82; 8:45 am]

BILLING CODE 3510–25–M

University of Tennessee Center for the Health Sciences; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 82–00202. Applicant: University of Tennessee Center for the Health Sciences, Charles B. Stout, Mass Spectrometry Laboratory, 800 Madison Avenue, Memphis, Tennessee 38163. Instrument: FAB11NF FAB–GG Field Ion Source. Manufacturer: Ion Tech, United Kingdom. Intended use of instrument: See Notice on page 27389 in the **Federal Register** of June 24, 1982.

Comments: No comments have been received with respect to this application. Decision: application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (November 11, 1981). Reasons: The foreign instrument provides the capability to volatilize and ionize compounds of low volatility and high molecular weight. The Department of Health and Human Services advises in its memorandum dated August 5, 1982 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82–26866 Filed 9–29–82; 8:45 am]

BILLING CODE 3510–25–M

[Case No. 636]

Digital Resources, Ltd.; Order Temporarily Denying Export Privileges

In the matter of: Alan C. T. Simmons, Keasen Farm, St. Ive Liskard, Cornwall, England, d.b.a. Digital Resources, Ltd., 34th Pezikow Syntagmatos 17, Pireas, Greece.

The Department of Commerce (the "Department"), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR Part 368, *et. seq.* (1981)) (the "Regulations"), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Alan C. T. Simmons, doing business as Digital Resources, Ltd. ("Simmons-DRL").

The Department states that Simmons-DRL is under investigation by the Department's Office of Export Enforcement. The Department states further that its investigation gives it reason to believe: (i) That Simmons-DRL has engaged in a scheme to procure United States-origin goods for use in, for, or by the Soviet Union; (ii) that, in carrying out certain transactions, Simmons-DRL has reexported U.S.-origin commodities contrary to the Regulations; and (iii) that Simmons-DRL may attempt future reexports contrary to the Regulations unless appropriate action is taken to preclude such attempts.

Based upon the showing made by the Department, I find that an order

temporarily denying all export privileges to Simmons-DRL is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401, *et seq.* (Supp. III 1979)), and the Regulations and to permit completion of the Department's investigation.

Anyone who is now or may in the future be dealing with the above-named respondent in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby Ordered:

I. All outstanding validated export licenses in which respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondent, its successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) in the obtaining of using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to its agents and employees and to any successor. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or related party, or whereby the respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, the respondent may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date. In accordance with the provisions of § 388.22 of the Regulations, the respondent or any related party may appeal to the Assistant Secretary for Trade Administration, U.S. Department of Commerce, Room 3898–B, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and order temporarily denying export privileges.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceeding or proceedings initiated against the respondent as a result of the ongoing investigation. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon the respondent.

Dated: September 24, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82-26682 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletions from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1982 services to be provided by and commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: September 30, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On June 11, 1982, May 21, 1982, and July 23, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 25399, 47 FR 22141, and 47 FR 31915 and 31916) of proposed additions to and deletions from Procurement List 1982, November 12, 1981 (46 FR 55740).

Additions

After consideration of the revelant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following services are hereby added to Procurement List 1982:

SIC 7349

Janitorial/Custodial, DCASR Building B–95, Lockheed Complex, 805 Walker Street, DCASR Building B–95, AF Plant 6, 612 Tinker Street, Marietta, Georgia

SIC 7349

Janitorial Service, Bureau of Land Management, Salem District Office, 1717 Fabry Road, S.E., Salem, Oregon

Deletions

After consideration of the relevant matter presented, the Committee has

determined that the commodities and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities and service are hereby deleted from Procurement List 1982:

Class 1430

Circuit Card Assembly, 1430–00–471–5375, 1430–00–403–5787

Class 1440

Circuit Card Assembly, 1440–00–454–8574

Class 6920

Circuit Card Assembly, 6920–00–482–8335

SIC 7399

Assembly of General Mechanic's Tool Kit, (5180–00–177–7033), GSA Depot, Kansas City, Missouri

C. W. Fletcher,

Executive Director.

[FR Doc. 82–26977 Filed 9–29–82; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1982; Correction of Proposed Additions

In FR Doc. 82–25664, published September 17, 1982 (47 FR 41154), the NSN for the item under Scarf, Branch of Service, Camouflage is corrected to read 8455–01–078–0745.

C. W. Fletcher,

Executive Director.

[FR Doc. 82–26978 Filed 9–29–82; 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: November 3, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

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 8115

Box, Shipping Wood,
8115–00–935–5887, 8115–00–935–6518,
8115–00–935–6525,
8115–00–935–6528,
8115–00–935–6530

Class 8415

Sock, Extreme Cold Weather, 8415–01–057–3503

SIC 0782

Grounds Maintenance, Vancouver Army Barracks, Vancouver, Washington

SIC 7349

Janitorial Service, John E. Moss Building, 650 Capital Mall, Sacramento, California
Janitorial Service, Federal Building, 1130 "O" Street, Fresno, California
Janitorial/Custodial (Laundry), National Defense University, Health Fitness, Ft. NcNair, Washington, D.C.
Janitorial Service, Federal Records Center, 380 Trapelo Road, Waltham, Massachusetts
Janitorial Service, Federal Building and Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania
Janitorial Service, Federal Building, 431 Crawford Street, Portsmouth, Virginia
Janitorial Service, Marine Corps Development and Education Command Buildings: 3035, 2034, 3400, 3098, and 2079, Quantico, Virginia

SIC 7349

Janitorial Service, U.S. Post Office and Courthouse, 10th and Main Streets, Richmond, Virginia
Janitorial Services, Survival School Buildings 1212, 1228, 1324, 1334, 1342, and 1207, Fairchild AFB, Washington
Janitorial Service, Federal Building, 502 8th Street, Post Office and Courthouse, 5th Avenue and 9th Street
O. I., 720 Sixth Avenue, Steiner Building, 233–37 4th Avenue, Hampton Warehouse, 25th and Suyan Avenue, Huntington, West Virginia

C. W. Fletcher,

Executive Director.

[FR Doc. 82–26976 Filed 9–29–82; 8:45 am]

BILLING CODE 6820–33–M

COMMODITY FUTURES TRADING COMMISSION

Minneapolis Grain Exchange Proposed White Wheat Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Minneapolis Grain Exchange ("MGE") has applied for designation as a contract market in white wheat. The Commission has determined that the terms and conditions of the proposed white wheat futures contract are of major economic significance and that, accordingly, making available the proposed contract for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before November 29, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the Minneapolis Grain Exchange white wheat futures contract.

FOR FURTHER INFORMATION CONTACT: Robert Clark, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., (202) 254–7303.

A copy of the terms and conditions of the MGE proposed white wheat futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the MGE in support of its application for contract market designation in white wheat may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for inspection of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the

terms and conditions of the proposed futures contracts, or with respect to other materials submitted by the MGE in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by November 29, 1982. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on September 27, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-26989 Filed 9-29-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Deactivation of the Titan II Missile System; Finding of No Significant Impact

The United States Air Force has completed its environmental impact analysis process and has issued the following finding of no significant impact (FONSI):

Section 1.0 *Introduction.*

The Air Force is proposing to deactivate the Titan II Missile Weapons System. The missile, its support equipment, and materiel, together with the system's operating, maintenance and logistic support personnel will be removed from the three operational bases. Training activities will terminate. Logistic and administrative support functions will also cease. Real estate and real property structures associated with the Titan II system will be disposed of or reassigned as separate actions from this decision.

Section 2.0 *Description of Proposed Action.*

The proposed action is to deactivate 52 operational missile sites: 18 at Davis-Monthan AFB, Arizona; 17 at McConnell AFB, Kansas; and 17 at Little Rock AFB, Arkansas. Missile site deactivation will include removal of warhead/reentry vehicle and transport to disposition points, off-loading of propellants and transport to storage/disposition points, removal of the booster (missile) and transport to storage for possible reuse as a space vehicle, and equipment removal with disposition through the established procedures of the Air Force Supply System and Defense Property Disposal System.

The project is considered in four phases:

I. Missile site deactivation.

II. Transport of items to disposition points.

III. Disposition of items.

IV. Deactivation of training and support bases.

Section 3.0 *Alternatives.*

3.1 The alternatives to the proposed action include several schedule alternatives including delayed deactivation, partial deactivation, prolonged deactivation, accelerated deactivation and the no-action alternative. Only the no-action alternative differs in the impact on the biophysical environment; all other alternatives are, in effect, scheduling alternatives. The factors in choosing among these alternatives are primarily management economy and logistic capability.

3.2 The no-action alternative means retention of a portion of the ICBM force that does not meet the changing strategy and guidance for strategic weapon systems in the late 1980's as well as newer systems which will eventually replace it.

Section 4.0 *Summary of Environmental Impacts.*

4.1 Phase I Impacts.

4.1.1 Atmospherics: The impact of the proposed action on air quality will be negligible. Vehicle-generated emissions and dust compose the greatest contribution. Small amounts of propellant vapors usually generated during propellant transfer may result in localized temporary exceedance of air quality standards for these substances. These are normal to existing operations and will have insignificant impact on the biophysical environment. Severe spills or propellant losses which would have a detectable effect on the biota are very unlikely for the entire program schedule, based on a record of two major accidents in 20 years, and the resulting safety measures introduced to prevent recurrence of these type accidents.

4.1.2 Hydrology: The impact of the proposed action on the hydrology will be positive. Water consumption at the missile sites will be greatly reduced in caretaker status. No planned action will result in discharges to the ground or surface waters. Unlikely worst case accidents resulting in spilled products reaching sensitive waters would be improbable.

4.1.3 Biology: Operations associated with missile site deactivation will have no impact on threatened or endangered species. No plant or animal life in those categories have been found near the missile sites. Transient birds and mammals would tend to avoid the area of human activity.

4.1.4 Aesthetics: No permanent changes to visual aesthetics would be associated with the planned action.

4.1.5 Demography and Economics: Demographic changes will occur in the vicinity of the Titan II operational bases as a result of Air Force manpower reductions. These are insignificant in the larger population areas of Tuscon, Arizona, and Wichita, Kansas. The city of Jacksonville, Arkansas will experience more of an impact on its population, school enrollment, and employment because of its smaller population. The regional impact on Pulaski County Arkansas will be minor, however.

4.1.6 Land Use: No immediate land use impacts will be caused by conversion of the sites to caretaker status.

4.1.7 Cultural Resources: No effect.

4.2.8 Local Transportation: Air Force vehicle usage of local roads will increase in the short term and decrease in the long term. Both will have insignificant effects.

4.1.9 Noise: Insignificant vehicle and equipment noise usually associated with a construction site will occur.

4.2 Phase II Impacts.

4.2.1 Atmospherics: Transport of missile and missile site components will have insignificant vehicle emission impacts. The unlikely event of a propellant spill could have severe local impacts, but the probability of a spill is low. The estimated probability of a major or minor propellant spill is less than one in fifty thousand per shipment.

4.2.2 Hydrology: The planned action will have no environmental effect on hydrology. The unlikely event of an accident induced propellant spill multiplied by the low probability of such a spill occurring within reach of a sensitive body of water make this risk insignificant.

4.2.3 Biology: The planned action will have no effect on biological species, except in the unlikely event of an accident-induced propellant spill. The improbability of a spill, compounded with the improbability of threatened or endangered species being within the spill affected area, results in a negligible impact. A greater danger exists to human populations in the event of a propellant spill during transport. Although the probability of experiencing a spill during the deactivation is very low, the consequences of any spill could be serious. However, the propellants would require eventual movement in any alternative including the no-action alternative. If it were feasible to neutralize these chemicals in place, similar amounts of new propellants

would require cross country transport to support space programs. Rail shipment of propellants would probably be less safe in the long run. The safety record and experience of the Air Force contracted propellant carriers is significantly better than the average highway carrier. The use of a highway carrier reduces the number of transfer operations compared with rail transport and also provides a full-time knowledgeable monitor of the load in the person of the driver. Response measures disseminated by the Air Force in coordination with the Federal Emergency Management Agency would considerably mitigate impacts of a spill. Anticipated impacts, combined with the probability of events, are considered insignificant.

4.2 Aesthetics, demographics, land use and cultural resources are unaffected in this phase of the deactivation.

4.2.5 Local transportation will have negligible impact. Most shipments will be on well established routes which are normally used to transport identical materials in support of Titan II operations.

4.2.6 Noise will be at the usual levels associated with the modes of transport.

4.3 Phase III Impacts.

4.3.1 Atmospherics and Hydrology: The impacts to air and water quality of this phase would be nearly identical to Phase I and are considered insignificant.

4.3.2 Biology: Planned operations should have no effect on threatened or endangered species.

4.3.3 Demography, land use, cultural resources, aesthetics, local transportation and noise will not be affected by the proposed action.

4.3.4 Economics: Reuse of Titan II propellants and components will result in an economic savings to the government. Increased operations at the disposition points should produce negligible increases in employment.

4.3.5 Rocky Mountain Arsenal: Although discussed in the Environmental Assessment, Rocky Mountain Arsenal is no longer being considered as a disposition point for Titan II propellants.

4.4 Phase IV Impacts.

4.4.1 There are no impacts on the biophysical environment from discontinuing Titan II logistic support and training activities.

4.4.2 Demographics: Decreases in employment associated with discontinuing support and training activities will be minor, as will all associated socioeconomic effects.

5.0 Changes to Manpower Reduction Numbers.

5.1 Just prior to the publication date of the environmental assessment, manpower reduction numbers at the operational bases were changed from 3420 to 4244 as shown on page 20 of the Environmental Assessment. This increase is for military positions, and about evenly distributed among the three bases. This change is not of a magnitude which should generate reanalysis or cause significant changes in the effects as presented in the assessment.

6.0 Conclusions.

6.1 The environmental assessment supports a conclusion that the proposed action will have little or no effect on the biophysical environment except in the event of a major propellant-spill accident. Missile Site (Phase I) spill accident impacts as a result of the proposed action are considered insignificant based on the record of only two severe propellant spills in twenty years of operation, extensive procedural and equipment modifications by the Air Force to prevent recurrence and/or mitigate the severity of these type accidents, and the relative isolation of the missile sites. Over the road transport (Phase II) propellant spill accidents have the potential for significant biophysical impact but the low probability of any accident involving any spill make the risk insignificant. The probability of a vehicle accident which could result in a major or minor spill is approximately one in fifty thousand per propellant shipment, and the probability of a major spill with significant impact is a fraction of that (only one spill of hazardous material is known to have occurred in the 80,000,000 carrier transport miles). Based on the probability of a severe propellant spill, the risk is considered insignificant. Propellant operations in Phase III (disposition) would be similar to Phase I in biophysical effect and risk and is also considered insignificant.

6.2 The socioeconomic impacts of the proposed action are minor and primarily associated with movement of military personnel.

Copies of the Environmental Assessment for the Proposed Deactivation of the Titan II Missile System and the FONSI are available from Headquarters Strategic Air Command/DEV, Offutt Air Force Base, Nebraska 68113. For further information, contact Capt. Pat Quinn, (402) 294–5854.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82–26906 Filed 9–29–82; 8:45 am]

BILLING CODE 3910–01–M

Corps of Engineers; Department of the Army

Intent To Prepare a Draft Environmental Impact Statement; Albeni Falls Dam, Seattle District

AGENCY: Army Corps of Engineers, Seattle District, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS) for an operating project known as Albeni Falls Dam, which is on the Pend Oreille River in northern Idaho.

Summary

a. *The Existing Project.* Albeni Falls Dam was constructed in 1951 and 1952 and is part of the Columbia River power system. The project was authorized to regulate Pend Oreille Lake for flood control, navigation, fish and wildlife conservation, recreation, and power generation. Under existing operation, the lake is held at elevation 2,062.5 feet above sea level in the summer. Lake level drawdown generally begins at about Labor Day, reaching a minimum level of about 2,051 feet by about 20 November. Refill of the lake to elevation 2,062.5 feet is usually accomplished by about 1 July. Pend Oreille Lake is one of the largest and deepest lakes in the western United States. It supports a major sport fishery, large populations of waterfowl, and significant winter bald eagle and summer osprey populations. Vegetated wetlands along the shores of the lake offer important nesting and feeding habitat to a wide variety of birds and mammals. Recreation and tourism associated with the lake and its resources are major contributors to the economic base of the region. Since no environmental documentation was prepared prior to the project's construction, the DEIS is intended to provide an assessment of environmental impacts of the present operation of the project and to compare and contrast these impacts with the potential impacts of alternative project operations.

b. *Alternatives.* The DEIS will discuss three alternatives to the existing lake operation: an alternative that enhances recreation, one that enhances hydropower production, and one that enhances fish and wildlife resources. The recreation alternative would have the latest drawdown (1 October), the highest winter elevation (2,060 feet), and probably the earliest refill (as early as 1 June). The hydropower alternative would have the earliest drawdown (1 September or before), a low winter level of 2,051 feet, and probably latest refill (as late as 15 July). The hydropower alternative would increase at site and

Columbia River system hydropower production. The fish and wildlife alternative would be similar to the recreation alternative except the winter lake level would be lower (2,056 feet). The fish and wildlife alternative would have slightly beneficial impacts to recreation, fish, and wildlife compared to the existing condition. The Corps of Engineers does not propose to change the operating mode of the Albeni Falls Dam project.

c. *Public Involvement and Review.* The DEIS will receive wide distribution among all interested and affected Federal, state, and local agencies; Indian tribes; and other private organizations and parties.

d. *Significant Issues.* The following issues will be analyzed in depth in the DEIS:

(1) What impact would the three alternatives and the existing operation have on migrating and resident waterfowl, bald eagles, osprey, and aquatic mammals?

(2) What impact would increased or decreased lake level fluctuations have on lake boating access, lake moorage, and tourism?

(3) What impact would the alternatives have on hydropower production?

(4) What impact would the alternatives have on lake fish populations (particularly kokanee) and fishing?

(5) What impact would the alternatives have on archeologic resources around the lake shoreline?

e. *Availability of DEIS.* The DEIS is presently scheduled to become available to the public in November 1982.

f. *Address.* Information about the DEIS can be obtained by contacting: Mr. Tom Bonde, Environmental Resources Section, Department of the Army, Seattle District, Corps of Engineers, Post Office Box C-3755, Seattle, Washington 98124, Telephone (206) 764-3625, (FTS) 399-3625.

Dated: September 22, 1982.

Norman C. Hintz,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-26934 Filed 9-29-82; 8:45 am]

BILLING CODE 3710-GB-M

Intent To Prepare a Draft Environmental Impact Statement; Great Salt Lake, Davis County, Utah

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS) on a Department of Army permit application by Davis County Planning Commission to discharge fill material in wetlands adjacent to Farmington Bay of the Great Salt Lake, Davis County, Utah. A permit is required under Section 404 of the Clean Water Act (33 U.S.C. 1344).

SUMMARY: Davis County proposes to fill wetlands adjacent to Farmington Bay for development of an industrial complex. The property is owned in separate parcels by various individuals and corporations. Approximately 687 acres of wetlands would be filled including saline flats, saline meadows, fresh wet meadows, and deep water marsh. All fill material placed in wetlands would consist of clean earth and gravel. Davis County also proposes construction of two main roads through wetlands to service the industrial areas. These roads would be constructed with a pervious rock base to minimize changes in the flow of ground water.

The alternatives being considered at this time are:

1. Proposed development as requested by the applicant.
2. Proposed development with other schemes of mitigation.
3. Scaled-down development.
4. Development located in upland areas.
5. No action.

Concurrently with this notice, the Sacramento District is issuing a public notice to initiate the scoping process. The public notice is being sent to all known interested parties, requesting that the reviewers provide comments on the topical scope, alternatives, and major issues to be discussed in the EIS. If, after review of the comments, it is determined that additional public input is needed, public scoping meetings will be held.

The significant issues which have been identified to date and which will be analyzed in the EIS are:

1. The need for the project.
2. Social and economic effects.
3. Wetland effects.
4. Water quality effects.
5. Flood plain effects.
6. Wildlife effects.
7. Hydrologic effects.
8. Cultural resources effects.
9. Cumulative effects.

Questions concerning the proposed action and EIS should be directed to Mr. Tom Coe, Regulatory Section, U.S. Army Corps of Engineers, 650 Capitol Mall, Sacramento, California 95814, telephone (916) 440-2541 (FTS-448-2541).

Arthur E. Williams,

Colonel, CE, District Engineer.

[FR Doc. 82-26935 Filed 9-29-82; 8:45 am]

BILLING CODE 3710-GH-M

DEPARTMENT OF ENERGY

National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on Enhanced Oil Recovery will meet in October 1982. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will hold its first meeting on Tuesday, October 19, 1982, in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Washington, D.C., starting immediately after the adjournment of the 10:00 a.m. meeting of the National Petroleum Council Committee on Enhanced Oil Recovery.

The Tentative agenda for the Coordinating Subcommittee meeting follows:

1. Review the scope, organization, and timetable of the study from the NPC Committee on Enhanced Oil Recovery.
2. Discuss membership of proposed task groups for the study.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading

Room, Room 1E–190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on September 23, 1982.

Donald L. Bauer,

Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 82–26999 Filed 9–29–82; 8:45 am]

BILLING CODE 6450–01–M

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), the following meeting notices are provided:

I. A meeting of Subcommittee A of the Industry Advisory Board (IAB) of the International Energy Agency (IEA) will be held on October 6, 1982, at the offices of Standard Oil Company of California, 575 Market Street, San Francisco, California, beginning at 9:30 a.m.

The agenda for the meeting is as follows:

1. Opening remarks.
2. Current oil market and stock developments, IEA/SOM (82)42; IEA Secretariat's August Assessment, IEA/SEQ (82) 32.
3. Quarterly Oil Forecast, IEA/SEQ (82) 27.
4. Oil contingency plans.
5. Allocation System Test-4 (AST–4) matters.
6. Industry Supply Advisory Group staffing.
7. Future work program and meeting schedule.

II. A meeting of Subcommittee C of the IAB of the IEA will be held on October 7, 1982, at the offices of Standard Oil Company of California, 575 Market Street, San Francisco, California, beginning at 9:30 a.m.

The agenda for the meeting is as follows:

1. Opening remarks.
2. IEA Dispute Settlement Centre, including:
   A. Report of the Director;
   B. Schedule of fees and expenses; and
   C. Status of consents to arbitration.
3. Status of U.S. statutory antitrust defense, including:
   A. Legislation; and
   B. Plan of Action.
4. Status of application for legal clearance under the Treaty of Rome.
5. Legal clearances for AST–4.
6. Availability of contract breach defense, including:
   A. Status of defenses in participating countries; and
   B. Effect of choice of law clause.
7. Future work program.

III. A meeting of the IAB of the IEA will be held on October 8, 1982, at the offices of Standard Oil Company of California, 575 Market Street, San Francisco, California, beginning at 9:00 a.m.

The agenda for the meeting is as follows:

1. Opening remarks; adoption of the agenda; approval of Record Notes of June 18, 1982, IAB meeting.
2. Correspondence and communications with Reporting Companies, including distribution of documents.
3. Oil contingency plans.
4. Report of Subcommittee A on documents:
   A. August Assessment—IEA/SEQ(82)32; and
   B. Quarterly Oil Forecast—IEA/SEQ(82)27.
5. Report of Subcommittee C on its October 7, 1982, meeting.
6. Progress report from AST–4 Design Group.
7. Staffing of committees.
8. Next IAB meeting.

As permitted by 10 CFR 209.32, the usual 7-day notice period has been shortened because unanticipated procedural delays prevented processing in sufficient time to provide such notice.

As provided in section 252(c)91)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., September 28, 1982.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 82–27104 Filed 9–29–82; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 82–13–LNG]

Distrigas Corp.; Application To Amend Authorization To Import Liquefied Natural Gas From Algeria

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application to Amend Authorization to Import Liquefied Natural Gas from Algeria.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on August 27, 1982, of the application of Distrigas Corporation (Distrigas) to amend its existing authorization to import liquefied natural gas (LNG) from Algeria. Currently, Distrigas is authorized to import 1,900,000 cubic meters (43.5 million MMBtu) of LNG per year from Algeria. Distrigas is requesting ERA to amend the current import authorization by approving the terms of Amendment No. 1 (Amendment) to the Agreement for the Sale and Purchase of Liquefied Natural Gas of April 13, 1976 (Supply Agreement) between Distrigas and Sonatrach, the Algerian national energy company. The Amendment, dated July 31, 1982, reflects the renegotiation by both signatories of several provisions of the Supply Agreement related to, among other things, the base price, the F.O.B. price, the escalator clause, and Distrigas's take-or-pay obligation

The application is filed with ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed no later than 4:30 p.m., November 1, 1982.

FOR FURTHER INFORMATION CONTACT:

R. T. Gehring (Natural Gas Branch, Oil and Gas Imports Division), Economic Regulatory Administration, 12th & Pennsylvania Avenue, NW., Room 6144, RG–631, Washington, D.C. 20461, (202) 633–9296

Michael T. Skinker (Office of General Counsel, Natural Gas and Mineral Leasing), 1000 Independence Avenue, SW., Forrestal Building, Room 6E–042,

Washington, D.C. 20585, (202) 252–6667

SUPPLEMENTARY INFORMATION: In an ERA order issued on December 31, 1977, in ERA Docket No. 77–011–LNG (FPC Docket Nos. CP77–216, CP77–217 and CP77–218), Distrigas was authorized to import LNG from Algeria at Everett, Massachusetts, for sale to its affiliate, Distrigas of Massachusetts Corporation (DOMAC), under the Supply Agreement. DOMAC transfers the LNG to storage tanks prior to sale and delivery to its eleven distribution company customers in New England, New York, and New Jersey, which use the LNG primarily for peak-shaving and high priority service. Distrigas was authorized to purchase a total of up to 43.5 million MMBtu of LNG per year for a period of twenty (20) consecutive years from the date of the first regular delivery of LNG in 1978.

The Supply Agreement expires in 1998 and provides that Distrigas and Sonatrach may meet for the purpose of reviewing the LNG sales price every four years commencing in 1980. Pursuant to this provision, the parties commenced negotiations in 1980, and have entered into the Amendment which reflects the agreed upon changes to the Supply Agreement. The principal provisions of the Amendment, as described by Distrigas in its application, are:

(1) An increase in the current base price from $1.30 to $4.44 per MMBtu, resulting in an increase in the current F.O.B. price from approximately $3.92 to $4.44 per MMBtu;

(2) A quarterly adjustment of the F.O.B. price based upon an average price for six different crude oils;

(3) A reduction in the number of cargoes that Distrigas is obligated to take or otherwise pay for from 17 to 14 cargoes annually;

(4) A modification of the delivery schedule to provide that delivery of the LNG cargoes more closely coincide with the requirements for LNG of DOMAC's customers (nine cargoes will be delivered in the winter and five cargoes in the summer);

(5) An option, exercisable at the sole discretion of Distrigas, to receive up to three additional ships in any one contract year through 1985. From and after 1986, its option is reduced to two ships annually;

(6) A change in the method of calculating the Btu content of the LNG sold by Sonatrach, resulting in a price reduction of approximately 5 cents per MMBtu;

(7) Establishment of provisions to minimize demurrage;

(8) Postponement of the next contract review by two years until January 1986; and

(9) A surcharge designed to give effect to the new F.O.B. price from and after the date of filing of this application.

No change in the current authorized volumes is sought by this application.

The C.I.F. price paid by Distrigas under the Supply Agreement is adjusted periodically in accordance with formulas set forth in the Supply Agreement which specify the method of recalculating both the F.O.B. price (commodity component) for the gas and the cost of transportation (transportation component), the sum of which comprises the total C.I.F. price. Except for a one-time change in the calculation period from a calendar year to a twelve-month period commencing April 1983, the Amendment does not change the formula used to compute the transportation component of the total price. It does, however, change the formula used to compute the commodity component.

Under the authorized formula, the current F.O.B. price is adjusted semiannually using a base price of $1.30 per MMBtu indexed to changes in the prices of No. 2 and No. 6 fuel oils from their July 1975 levels. This adjustment is made as a percentage (50%) of the changes in the prices of No. 2 and No. 6 fuel oil as compared to a base period price. The adjustment under the Amendment is made on a dollar-for-dollar basis, not a percentage basis. The old formula resulted in an F.O.B. price of $3.9172 per MMBtu as of July 1, 1982. The Amendment increases the base price to $4.44 per MMBtu and results in a new F.O.B. price that would currently be $4.44 per MMBtu. The F.O.B. price under the amendment is subject to a quarterly adjustment based upon an escalator formula in which $4.44 per MMBtu is the base price and the adjustment is based on the arithmetic average of the daily prices of a basket of six different crude oils; expressed in dollars per MMBtu. The six crude oils are: Arabian Light (Saudi Arabia); Sahara Blend (Algeria); Bonny Light (Nigeria); Isthmus (Mexico); Minas (Indonesia); and Tia Juana (Venezuela). This quarterly adjustment will reflect the difference between the revised average price of the crude oils at the time of adjustment and a dollar base figure of $5.879572 per MMBtu, which represents the arithmetic average price per MMBtu for these selected crude oils during the second quarter of 1982. The price adjustment may be upward or downward.

The Amendment, including the new F.O.B. sales price, is effective August 3, 1982. Since no deliveries of LNG are anticipated during the month of August 1982, the amended price will not be applicable to any sales until the September cargo is received, on or about September 22, 1982. In order to give effect to the new price from the date of the filing of the application until final approval, the Amendment provides for a surcharge to be assessed by Sonatrach after ERA approval of the Amendment. The method of calculation of the surcharge is set forth in a separate letter dated July 31, 1982, submitted as part of the application.

Distrigas states that the Amendment is not inconsistent with the public interest for the following reasons:

(1) Distrigas asserts that since substantial capital investments have been made in facilities by both DOMAC and its customers, significant adverse economic impact would result from ERA's failure to approve the application.

(2) There continues to be a need for the service provided, as the LNG is used for peak-shaving purposes in the market area involved which includes Massachusetts, Connecticut, Rhode Island, New York, and New Jersey. Distrigas states that it has under preparation a study of its customers' need for this LNG. This study will be submitted to ERA in the near future and will then be made a part of the record and available to the public.

(3) The amended C.I.F. price represents only a ten percent increase and compares favorably with the delivered price of LNG in recent contracts with European buyers and in other U.S. markets. Further, Distrigas asserts that the operation of the surcharge with respect to the price was an important element in the overall negotiations in which Distrigas was able to obtain substantial concessions, such as the more favorable scheduling of cargoes, the reduction of Distrigas's take-or-pay obligation, the delay of the date of the next quadrennial review, a reduction in demurrage payments, and a different method of measuring the Btu content of the LNG, resulting in a price reduction of about 5 cents per Btu.

(4) The Amendment provides for a quarterly adjustment in price based on the average dollar value of a basket of crude oils. Distrigas asserts that this methodology is not without precedent and that because of the choice of heavy

crude oils, it will tend to favor Distrigas in the calculation of future price adjustments. Additionally, the use of decreased crude oil prices, as well as increased prices for determining the adjusted price, is designed to reflect energy market conditions.

(5) Distrigas asserts that the source and security of supply is unaffected by the Amendment, because the volumes will not change and will be supplied from the same source. Distrigas further asserts that no regional or national overdependence will result from these imports, because the volumes are relatively small in relation to the total requirements of the ultimate end-users. Distrigas states that the security of supply has been satisfactory over many years, even under adverse conditions, and that Sonatrach has satisfied fully the supply requirements of Distrigas since the implementation of the expanded program in 1978. Distrigas asserts that Sonatrach has ample incentive to continue performance under the Supply Agreement, because of Algeria's declining oil revenues resulting from a decline in oil production.

It is, thus, anticipated that gas exports will become the main source of foreign currency for Algeria.

(6) Distrigas asserts that the Amendment will have no significant adverse effect upon the United States balance of payments because the volume of gas imported by Distrigas is only a small part of the total volume of natural gas imported into the United States each year and the increase in price reflected in the Amendment is small. Distrigas further states that this LNG offsets, in part, the need for the purchase of other high priced supplemental supplies from other foreign sources.

(7) Distrigas asserts that because of the relatively small amount of LNG imported by Distrigas and its use as a supplemental fuel, it will have virtually no impact on either long-term or short-term domestic natural gas production.

(8) Distrigas notes that its customer, DOMAC, sells only the LNG imported by Distrigas, and has no other source of gas. Distrigas states that the price of the LNG paid by Distrigas is passed through directly to DOMAC which, in turn, passes through the cost to its customers. Thus, there is no subsidization or rolling-in of LNG costs with other purchased gas costs, but a direct flow-through of costs to customers.

(9) Distrigas also asserts that the Amendment between Sonatrach and Distrigas will not require the construction of any new facilities on behalf of Distrigas or DOMAC.

Procedures

Any person wishing to become a party to the proceeding, and thus to participate in any conference or hearing which might be convened, must file a petition to intervene. Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements that were specified by the regulations that were in effect on October 1, 1977 (the establishment of DOE), in 18 CFR 1.8 and 1.10. They should be filed with the Natual Gas Branch, Economic Regulatory Administration, Room 6144, RG–631, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461. All protests and petitions to intervene must be filed no later than 4:30 p.m., November 1, 1982.

A hearing will not be held unless a motion for a hearing is made by a party or person seeking intervention and granted by ERA, or if ERA on its own motion believes that a hearing is necessary or required. A person filing a motion for hearing must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Distrigas' application is available for inspection and copying in the Natural Gas Branch Docket Room, located in Room 6144, 12th & Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on September 24, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–27002 Filed 9–29–82; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Coal Distribution Report; Request for Comments on Extension of Form EIA–6

AGENCY: Energy Information Administration, DOE.

ACTION: Request for comments on extension of Form EIA–6.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) plans to extend the quarterly Coal Distribution Report and invites comments on the survey and content of the form.

DATES: Written comments must be submitted within 30 days of the publication of this notice.

ADDRESSES: Send comments to Harriet M. Tarver at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the EIA–6, contact Ms. Harriet M. Tarver, EI–521, Coal Division, Energy Information Administration, Department of Energy, MS: 2F–021, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–9723.

SUPPLEMENTARY INFORMATION:

I. Background
II. Coal Distribution Report, Form EIA–6
III. Request for Comments

I. Background

The EIA announces plans to extend the collection of coal distribution data on the Coal distribution Report (Form EIA–6). The EIA–6 is designed to provide volume data for coal distribution by mode of transportation and consumer catagory. The EIA–6 is a mandatory form collected under authority of the Federal Energy Administration (FEA) Act of 1974 (P.L. 93–275) and the Powerplant and Industrial Fuel Act of 1978 (P.L. 95–620), which is filed quarterly by all companies in the 50 States and the District of Columbia that distributed more than 50,000 tons of coal during the past year. These companies include coal mining companies and wholesale and retail coal dealers.

II. Coal Distribution Report, EIA–6

A sample of the Form EIA–6 and the instructions follow.

III. Request for Comments

EIA invites the public to comment on the form within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses.

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarifying?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted in accordance with the response time specified in the instructions?

D. How many hours, including time for computation, preparation and administrative review, will it take your company to complete and submit a quarterly form?

E. What is the cost of completing a quarterly form, including the direct and indirect costs associated with this data collection? Direct costs should include all one-time and recurring costs, such as development, assembly, equipment, ADP and other administrative costs directly attributable to providing this information.

F. How can this form be improved?

Comments provided on the Form EIA–6 will be included in EIA's submission to the Office of Management and Budget and will become a matter of public record.

Issued in Washington, D.C.

Dated: September 21, 1982.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

BILLING CODE 6450-01-M

Energy Information Administration
Coal Distribution Report

U.S. Department of Energy

This report is being collected under the mandatory authorities vested in the U.S. Department of Energy under the Federal Energy Administration Act of 1974 (P.L. 93-275) and the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620). Late filing, failure to file, or failure otherwise to comply with these instructions may result in criminal fines, civil penalties and other sanctions as provided by section 13 (i) of P.L. 93-275. For provisions concerning the confidentiality of information submitted on this form, see Section IX of the instructions.

Form Approved
O.M.B. No. 1905-0005
Approval Expires 4/30/83

I. RESPONDENT IDENTIFICATION

10010

If the above name and address label is incorrect, please make changes in the space provided at the right.

If you have nothing to report, please indicate this in the Remarks (Part VII), sign the Certification (Part X) and return the form.

Please read the instructions before completing this form.

Report all coal quantities in short tons (2,000 lbs.) to the nearest whole ton. If exact figures are not available, estimate the quantities and indicate the estimated data by placing (est) in front of the reported data item.

Blanks will be interpreted as zeros; therefore it is not necessary to enter "not applicable (NA)," or dashes or zeros where you have no data to report.

If a data item reported herein includes a revision to the same data item as previously reported which results in a net minus quantity, indicate this by enclosing the reported quantity in parentheses ( ).

After entering your data, please check its consistency using the equations given in Part VI to ensure that your data submission can be processed.

If you desire a copy of the publication,"Coal Distribution", Quarterly, please check here. ☐

A. Coal Producing District

Enter the number for the coal producing district covered in this report as described in table 1 of the instructions. ☐☐

11010

A SEPARATE FORM EIA-6 MUST BE SUBMITTED FOR EACH COAL PRODUCING DISTRICT IN WHICH COAL WAS MINED.

B. Name(s) and Address(es) of Parent Company(ies): See VI D2. of the instructions for the definition of Parent Company before completing this section. (If additional space is needed, use a separate sheet of paper.)

Name of Parent Company	Address *(Street, City, State, Zip)*

II. MINE ORIGIN OF COAL

A. Coal Produced at Your Company's Mines during the Quarter:

The quantity of coal reported here must reflect the condition of the coal (i.e., raw, crushed, screened or mechanically cleaned) as of its sale, distribution or placement into stocks. Exclude refuse. For each of your company's mines located in this coal producing district, enter the name of the producing company (if different than responding company), the name and location of the mine and the quantity of coal produced during the reporting quarter. (If additional space is needed, use a separate sheet of paper.)

Name of Mine	Name of Producing Company *(if different than responding company)*	Mine Location *(County)*	*(State)*	Quantity Produced *(short tons)*
Total coal produced in this District at your company's mines during the quarter excluding refuse.				21999

B. Coal Purchased from Other Companies during the quarter which was produced in this District:

The quantity of coal reported here must reflect the condition of the coal (i.e., raw, crushed, screened or mechanically cleaned) as of its purchase.

Report here the quantity of coal purchased from other companies during the reporting quarter which was produced in this coal producing district. Enter for each company, the company name and address, the name(s) of the mining operations from which the coal originated and the quantity of coal purchased. (If additional space is needed, use a separate sheet of paper.)

Name of Company	Address *(Street, City, State, Zip)*	Name of Producing Mine(s)	Quantity Purchased *(short tons)*
Total coal purchased from other companies during the quarter which was produced in this District excluding refuse.			22999
C. Total Coal Produced or Purchased during the quarter which was mined in this district. *(Sum of totals in Sections A and B.)* →			23999

EIA-6 (Rev. April 1980)

III. DISTRIBUTION WHERE THE CONSUMER IS KNOWN

Report here the distribution during the reporting quarter of that portion of the coal reported in Part II.C. plus any coal distributed from stocks located in this coal producing district for which you know the consumer. **Please read Parts VI. A, B, and C of the instructions before completeing Part III** so that the consumer categories, methods of transportation and other uses will be correctly identified. Please note that mining (column 4 of the consumer categories) does not include coal mining. Coal used at your company's mining operations must be reported in Part III C Line 37499. Report Shipments of Coal to Tidewater Piers or Coastal Ports for Overseas Exports (except Canada and Mexico) on Line 34802 of Part III D.

A. Shipments by Rail

Destination	Quantity Distributed by Consumer Categories (Short Tons)						
	Electric Utilities (1)	Coke Plants (2)	Manufacturing (except Coke Plants) (3)	Agriculture, Mining, and Construction (4)	Residential/ Commercial (5)	Total (6)	
U.S.							31001
Alabama							31002
Alaska							31004
Arizona							31005
Arkansas							31006
California							31008
Colorado							31009
Connecticut							31010
Delaware							31011
District of Columbia							31012
Florida							31013
Georgia							31016
Idaho							31017
Illinois							31018
Indiana							31019
Iowa							31020
Kansas							31021
Kentucky							31022
Louisiana							31023
Maine							31024
Maryland							31025
Massachusetts							31026
Michigan							31027
Minnesota							31028
Mississippi							31029
Missouri							31030
Montana							31031
Nebraska							31032
Nevada							31033
New Hampshire							31034
New Jersey							31035
New Mexico							31036
New York							31037
North Carolina							31038
North Dakota							31039
Ohio							31040
Oklahoma							31041
Oregon							31042
Pennsylvania							31044
Rhode Island							31045
South Carolina							31046
South Dakota							31047
Tennessee							31048
Texas							31049
Utah							31050
Vermont							31051
Virginia							31053
Washington							31054
West Virginia							31055
Wisconsin							31056
Wyoming							31122
Canada							31201
Mexico							31199
Total rail shipments							

B. Shipments Via River I.D. No.

Page 3 of 6 pages

Destination U.S. *(list by state)*	Quantity Distributed by Consumer Categories (Short Tons) Electric Utilities (1)	Coke Plants (2)	Manufacturing (except Coke Plants) (3)	Agriculture, Mining, and Construction (4)	Residential/ Commercial (5)	Total (6)	
Total shipments via river							32299

Indicate how coal was delivered to the river: **Quantity in short tons delivered by–** Rail 32202; Truck 32203

C. Shipments Via Great Lakes Conveyor belt 32204

Destination U.S.							
Illinois							33017
Indiana							33018
Michigan							33026
Minnesota							33027
New York							33036
North Dakota							33038
Ohio							33039
Pennsylvania							33042
South Dakota							33046
Wisconsin							33055
Canada							33122
Total shipments via Great Lakes							33399

Indicate how coal was delivered to the Great Lakes: **Quantity in short tons delivered by–** Rail 33301; Truck 33302; River 33303

D. Shipments Via Tidewater Piers and Coastal Ports

Destination U.S. *(list by state)*						
Canada						34122
Mexico						34201
Overseas exports (except Canada and Mexico)						34802
Total shipments via tidewater piers and coastal ports						34499

Indicate how coal was delivered to the tidewater piers and coastal ports: **Quantity in short tons delivered by–** Rail 34401; Truck 34402; River 34403

E. Shipments Via Truck

Destination	Quantity Distributed by Consumer Categories (Short Tons)						
	Electric Utilities	Coke Plants	Manufacturing (except Coke Plants)	Agriculture, Mining, and Construction	Residential/ Commercial	Total	
U.S. *(list by state)*	(1)	(2)	(3)	(4)	(5)	(6)	
Canada							35122
Total shipments via truck							35599

F. Shipments Via Tramway/Conveyor or Slurry Pipeline *(list by state of destination)*

1. Shipments via tramway/conveyor						
Total shipments via tramway/conveyor						36199
2. Shipments via slurry pipeline						
Total shipments via slurry pipeline						36299
Total shipments via tramway/ conveyor and slurry pipeline						36699

G. Other Uses	**Total Quantity Distributed (Short Tons)**	
Railroad fuel		37199
Vessel/ship fuel		37299
Coal gasification/liquefaction		37399
Coal used at your company's mines		37499
Coal sold to employees		37599

H. Sales of Coal to Other Coal Distribution Companies where you know and reported the consumer

Enter below the name(s) and address(es) of coal distribution companies who purchased any of your coal that was reported in Part III, A-G. For each company, identify the quantity of coal purchased from you during the reporting quarter and indicate where this coal was reported in Part III of the form. (If additional space is needed, use a separate sheet of paper.)

Company that Purchased Your Coal		**Quantity Purchased (Short Tons)**	**Indicate Where This Tonnage Is Reported in Part III:**		
Name	Address *(Street, City, State, Zip)*		Section	State	Consumer Category
Total quantity of coal purchased by other coal distribution companies that was reported in Part III, Sections A-G					38999

IV. DISTRIBUTION WHERE THE CONSUMER IS UNKNOWN I.D. No. Page 5 of 6 pages

Enter below the name(s) and address(es) of coal distribution companies who purchased any of your company's coal during the reporting quarter where the consumer is unknown to you. For each company, identify the quantity of coal purchased from you during the reporting quarter. (If additional space is needed, use a separate sheet of paper.) **Report coal exported overseas in Part III D on line 34802.**

Coal Company that Purchased Your Coal

Name	Address *(Street, City, State, Zip)*	**Quantity Purchased (Short Tons)**

Total quantity of your coal purchased by other coal distribution companies where the consumer is unknown.		40999
V. STOCKS	**Quantity (Short Tons)**	
A. Coal produced in this district which was held in stocks by your company at the **start** of the reporting quarter *(exclude refuse).*		51999
B. Coal produced in this district which was held in stocks by your company at the **end** of the reporting quarter *(exclude refuse).*		52999

VI. DATA CONSISTENCY CHECKS

The following equations should be used to check the consistency of your data:

A. Stock Equation: Line code 51999 (current quarter) = Line code 52999 (previous quarter).

B. Balance Equation: Line codes (current quarter) 51999 + 21999 + 22999 = Line codes (current quarter) 31199 + 32299 + 33399 + 34499 + 35599 + 36699 + 37199 + 37299 + 37399 + 37499 + 37599 + 40999 + 52999.

If these equations are not satisfied it means that your data are inconsistent and some data elements are missing from your report (such as stocks) or entered incorrectly. These equations must be satisfied before your data can be processed by EIA.

VII. REMARKS

VIII. POINT OF CONTACT

Enter the name, title, and telephone number of your company representative who can answer questions regarding the information provided on this form.

Name	Title	Area Code & Office Telephone No.
		( ) -

IX. DISCLOSURE STATEMENT

Please read Part IX of the instructions before completing this section.

A. Information requested on this form is confidential and if released will cause substantial competitive injury	☐ Yes ☐ No	80010
B. Written substantial justification is attached	☐ Yes ☐ No	80020
C. Written substantial justification previously attached	☐ Yes ☐ No	80030

X. CERTIFICATION

This part of the form must be completed by the company official empowered to certify that the information provided on this form is true and accurate. Print or type the certifying official's name and title. The certifying official must sign and date the certification.

I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Name _____ Title _____

Signature _____ Date _____ 90010

TITLE 18, USC 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

GPO 887-607

Energy Information Administration
Instructions for Form EIA-6–
Coal Distribution Report

U.S. Department of Energy

I. Purpose

Form EIA-6 is designed to provide volume data for coal distribution by mode of transportation and consumer category. The data collected will be used in the compilation of aggregated statistical reports, for coal related analyses and policy studies, and for monitoring the effects of mandated coal programs. This form is a mandatory reporting requirement under the Federal Energy Administration (FEA) Act of 1974 (P.L. 93-275) and the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620).

II. Who Shall Submit

All companies in the 50 States and the District of Columbia that owned or purchased and distributed in excess of 50,000 tons of coal during the year defined by the current reporting quarter and the previous three reporting quarters. These companies include coal mining companies, wholesale coal dealers (including brokers), and retail coal dealers. Companies that take custody (physical possession) of the coal and transport but never own or purchase the coal or companies that only negotiate the sales of coal but never own or purchase the coal need not report. Retain the copy marked "File Copy" for your records.

III. Where to Submit

Companies shall return completed EIA-6 forms to:

Energy Information Administration, EI-34
Mail Station: BG-086, FORSTL
U.S. Department of Energy
Washington, D.C. 20585

Request for further information, additional forms and instructions, an extension of the reporting deadline or copies of the report "Coal Distribution, Quarterly" may be directed to the address above or by telephone to (202) 252-6886.

IV. When to Submit

Form EIA-6 shall be submitted no later than thirty (30) working days after the close of each report quarter. The reporting quarters are: January 1-March 31, April 1 - June 30, July 1 - September 30, and October 1 - December 31.

V. Sanctions

The timely submission of Form EIA-6 by a company required to report is a mandatory requirement. Late filing, failure to file, or failure otherwise to comply with these instructions may result in criminal fines, civil penalties and other sanctions as provided by Section 13 (i) of the FEA Act of 1974 (P.L. 93-275).

VI. Definitions

A. Consumer Categories

1. Electric Utilities– All privately owned companies and all publicly owned agencies engaged in the production of electric power for public use. Publicly owned agencies include the following: Municipal electric utilities; Federal power projects, such as the Tennessee Valley Authority (TVA); and rural electrification cooperatives, power districts, and State power projects.
2. Coke Plants– All plants where coal is carbonized for the manufacture of coke in slot or beehive ovens. Report only coal that is carbonized to produce coke. Shipments of coal to coke plants for use in space heating or electric power generation should be included with "Manufacturing (except Coke Plants)." Do not report coal used to produce form coke. Include coal used for form coke with "Manufacturing (except Coke Plants)."
3. Manufacturing (except Coke Plants)– Those industrial users/plants, not including coke plants, that are engaged in the mechanical or chemical transformation of materials or substances into new (i.e., finished or semifinished) products.
4. Agriculture, Mining, and Construction– Companies engaged in agriculture, mining (other than coal mining), or construction industries.
5. Residential/Commercial– Housing units; wholesale and retail businesses (except coal wholesale dealers); health institutions (hospitals); social and educational institutions (schools and universities); and Federal, State, and local governments (military installations, prisons, office buildings, etc.). Exclude shipments to Federal power projects, such as TVA; rural electrification cooperatives, power districts, and State power projects; these are to be included in consumer category 1 (Electric Utilities).

B. Methods of Transportation to Consumers

1. Rail– Shipments of coal moved to consumers by rail (private or public/commercial). Included is coal hauled to or away from a railroad siding by truck.
2. River– Shipments of coal moved to consumers via river by barge. Not included are shipments to Great Lakes Coal Loading Docks or Tidewater Piers or Coastal Ports.
3. Great Lakes– Shipments of coal moved to consumers via the Great Lakes. These shipments are moved via the Great Lakes Coal Loading Docks which are identified by name and location as follows:

Superior Midwest Energy Terminal, Superior, Wisconsin
Bessemer & Lake Erie Coal Storage & Transfer Facility, Conneaut, Ohio
B&O Railroad Coal Loading Dock, Lorain, Ohio
C&O Railroad Presque Isle Docks, Toledo, Ohio
Lakefront Dock & Railroad Terminal Company Coal Loading Dock, Toledo, Ohio
N&W Sandusky Coal Pier No. 3, Sandusky, Ohio
ConRail Coal Transfer Facilities, Ashtabula, Ohio
Rail to Water Transfer Corp. Dock, Chicago, Illinois

4. Tidewater Piers and Coastal Ports–Shipments of coal moved to Tidewater Piers and Coastal Ports for further shipments to consumers via coastal water or ocean. The Tidewater Piers are identified by name and location as follows:

B&O Curtis Bay Coal Piers, Baltimore, Maryland
C&O Coal Piers Nos. 14 & 15, Newport News, Virginia
N&W Lamberts Point Coal Piers Nos. 5 & 6, Norfolk, Virginia
Alabama State Docks Bulk Handling Plant, Mobile, Alabama
Alabama State Docks/McDuffie Terminals, Mobile, Alabama
Canton Coal Pier, Baltimore Harbor on Chesapeake Bay
Greenwich Coal Pier, Greenwich Point, Philadelphia, Pa. on Delaware River
Port Richmond Pier, Pier 18–Port Richmond, Philadelphia, Pa. on Delaware River
Galveston Regional Coal Distribution Center, Pelican Island, Galveston, Texas
International Marine Terminals/Plaquemines Parish Terminal, Mile 57 AHP–Mississippi River, Approx. 30 miles South of New Orleans
Energy Terminals of Houston, Inc., a Subsidiary of Soros Associates, Houston, Texas

The Coastal Ports include those located at Charleston, S.C., New York, N.Y., San Diego, Ca., Los Angeles, Ca., Seattle, Wa.

Instructions for Form EIA-6—Coal Distribution Report—Continued

5. **Truck**— Shipments of coal moved to consumers by truck. Not included is coal hauled to or away from a railroad siding by truck.
6. **Tramway, Conveyor, or Slurry Pipeline**— Shipments moved to consumers by tramway, conveyor, or slurry pipeline.

C. **Other Uses**
1. **Railroad fuel**— Shipments of coal to railroad companies to be used as fuel (engine, powerhouse, etc.)
2. **Vessel/Ship fuel**— Shipments of coal to be used as vessel/ship fuel.
3. **Coal gasification/liquefaction**— Conversion of coal to gaseous (low to medium BTU gas) or liquid (such as synthetic crude oil and methanol) hydrocarbons.
4. **Coal used at your company's mines**— Coal consumed at your company's mines in this district during the reporting quarter.
5. **Coal sold to employees**— coal sold to employees during the reporting quarter.

D. **Miscellaneous**
1. **Coal Producing Districts**— See definitions of Coal Producing Districts in table 1 of the instructions.
2. **Parent Company**— A company which solely or jointly owns the reporting company and which is not itself a subsidiary of or owned by another company.

VII. General Instructions

A separate report shall be submitted for each coal producing district in which the coal was mined. Complete all data items on the form applicable to your operation. All figures should be rounded to the nearest whole number. Report all tonnage in short tons (2,000 pounds). Blanks will be interpreted as zeroes, therefore it is not necessary to enter "not applicable (NA)" or dashes or zeroes where you have no data to report.

VIII. Specific Instructions

How to report the methods of transporting coal to a consumer:

A. If the shipment involved only one method of transportation from the point of origin to the consumer, report the shipment in the section for that method of transportation.

B. If the shipment involved more than one method of transportation from the point of origin to the consumer, use the following guidelines in reporting the method of transportation:

1. If water transportation was involved, regardless of other methods of transportation also involved, report the method of transportation as one of the three types of water shipments, i.e., river, Great Lakes, or Tidewater Piers and Coastal Ports. In addition, specify how the shipment(s) was(were) delivered to the river (rail or truck), Great Lakes (rail, truck, or river) or Tidewater Piers or Coastal Ports (i.e., by rail truck or river).
2. If rail and truck are involved and no water transportation was involved, then report the method of transportation as rail.
3. Truck is to be reported as the method of transportation to the consumer only if the coal was shipped directly to the consumer by truck.

IX. Disclosure Information

The information contained on form EIA-6 may be (i) information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act (FOIA) [5 U.S.C. 552 (b) (4)] or (ii) prohibited from public release by 18 U.S.C. 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, you should state briefly and specifically (on an element by element basis if possible), in a letter accompanying your submission of the form, why you consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential by your company and the industry, and the type of competitive harm that would result to your company from disclosure of the information. In accordance with the provisions of 10 C.F.R. 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE does not receive a request for exemption from you, it will assume that you do not object to public disclosure of any information submitted on this form by your company. A new written justification need not be submitted each time a form EIA-6 is submitted if—

a) your views concerning information items identified by you as privileged or confidential have not changed and
b) a written justification setting forth your views in this regard was previously submitted.

By statutory authority DOE must provide this information, when requested, to the Congress or any committee of Congress and the General Accounting Office.

Instructions
Page 3-

Table 1. Definition of Coal Producing Districts

District 1
Maryland—All mines in the State.
Pennsylvania—
All mines in the following counties:

Bedford	Centre	Forest	McKean
Blair	Clarion	Fulton	Mifflin
Bradford	Clearfield	Huntingdon	Potter
Cambria	Clinton	Jefferson	Somerset
Cameron	Elk	Lycoming	Tioga

Selected mines in the following counties:
Armstrong County (part)—All mines east of the Allegheny River, and those mines served by the Pittsburgh & Shawmut Railroad located on the west bank of the river.
Fayette County (part)—All mines located on and east of the line of Indian Creek Valley branch of the Baltimore & Ohio Railroad.
Indiana County (part)—All mines not served by the Saltsburg branch of the CONSOLIDATED RAIL CORPORATION.
Westmoreland County (part)—All mines served by the CONSOLIDATED RAIL CORPORATION from Torrance, east.

West Virginia—All mines in the following counties:
Grant Mineral Tucker

District 2
Pennsylvania—
All mines in the following counties:

Allegheny	Butler	Lawrence	Venango
Beaver	Green	Mercer	Washington

Selected mines in the following counties:
Armstrong County (part)—All mines west of the Allegheny River except those mines served by the Pittsburgh & Shawmut Railroad.
Fayette County (part)—All mines except those on and east of the line of Indian Creek Valley branch of the Baltimore & Ohio Railroad.
Indiana County (part)—All mines served by the Saltsburg branch of the CONSOLIDATED RAIL CORPORATION.
Westmoreland County (part)—All mines except those served by the CONSOLIDATED RAIL CORPORATION from Torrance, east.

District 3
West Virginia—
All mines in the following counties:

Barbour	Jackson	Randolph	Webster
Braxton	Lewis	Ritchie	Wetzel
Calhoun	Marion	Roane	Wirt
Doddridge	Monongalia	Taylor	Wood
Gilmer	Pleasants	Tyler	
Harrison	Preston	Upshur	

Selected mines in the following county:
Nicholas County (part)—All mines served by or north of the Baltimore & Ohio Railroad.

District 4. Ohio—All mines in the State.

District 5. Michigan—All mines in the State.

District 6
West Virginia—All mines in the following counties:

Brooke	Hancock	Marshall	Ohio

District 7
Virginia—
All mines in the following counties:
Montgomery Pulaski Wythe Giles Craig
Selected mines in the following counties:
Buchanan County (part)—All mines in that portion of the county served by the Richlands-Jewell Ridge branch of the Norfolk & Western Railroad and in that portion on the headwaters of Dismal Creek east of Lynn Camp Creek (a tributary of Dismal Creek).
Tazewell County (part)—All mines in those portions of the county served by the Dry Fork branch to Cedar Bluff and from Bluestone Junction to Boissevain branch of the Norfolk & Western Railroad and Richlands-Jewell Ridge branch of the Norfolk & Western Railroad.
West Virginia—
All mines in the following counties:
Greenbrier Mercer Monroe Pocahontas Summers
Selected mines in the following counties:
Fayette County (part)—All mines east of Gauley River and all mines served by the Gauley River branch of the Chesapeake & Ohio Railroad and mines served by the Norfolk & Western Railroad.
McDowell County (part)—All mines in that portion of the county served by the Dry Fork branch of the Norfolk & Western Railroad and east thereof.
Raleigh County (part)—All mines except those on the Coal River branch of the Chesapeake & Ohio Railroad and north thereof.
Wyoming County (part)—All mines in that portion served by the Guyandot branch of the Norfolk & Western Railroad lying east of the mouth of Skin Fork of Guyandot River and in that portion served by the Virginia division main line of the Norfolk & Western Railroad.

District 8
Kentucky—All mines in the following counties in eastern Kentucky:

Bell	Greenup	Lawrence	Morgan
Boyd	Harlan	Lee	Owsley
Breathitt	Jackson	Leslie	Perry
Carter	Johnson	Letcher	Pike
Clay	Knott	McCreary	Rockcastle
Elliott	Knox	Magoffin	Wayne
Floyd	Laurel	Martin	Whitley

North Carolina—All mines in the State.
Tennessee—All mines in the following counties:

Anderson	Claiborne	Fentress	Overton	Scott
Campbell	Cumberland	Morgan	Roane	

District 8—*Continued*
Virginia—
All mines in the following counties:
Dickinson Lee Russell Scott Wise
Selected mines in the following counties:
Buchanan County (part)—All mines in the county, except in that portion on the headwaters of Dismal Creek, east of Lynn Camp Creek (a tributary of Dismal Creek) and in that portion served by the Richlands-Jewell Ridge branch of the Norfolk & Western Railroad.
Tazewell County (part)—All mines in the county except in those portions served by the Dry Fork branch of the Norfolk & Western Railroad and branch from Bluestone Junction to Boissevain of Norfolk & Western Railroad and Richlands-Jewell Ridge branch of the Norfolk & Western Railroad.
West Virginia—
All mines in the following counties:

Boone	Clay	Lincoln	Mason	Putnam
Cabell	Kanawha	Logan	Mingo	Wayne

Selected mines in the following counties:
Fayette County (part)—All mines west of the Gauley River except mines served by the Gauley River branch of the Chesapeake & Ohio Railroad.
McDowell County (part)—All mines west of and not served by the Dry Fork branch of the Norfolk & Western Railroad.
Nicholas County (part)—All mines in that part of the county south of and not served by the Baltimore & Ohio Railroad.
Raleigh County (part)—All mines on the Coal River branch of the Chesapeake & Ohio Railroad and north thereof.
Wyoming County (part)—All mines in that portion served by the Guyandot branch of the Norfolk & Western Railroad and lying west of the mouth of Skin Fork of Guyandot River.

District 9
Kentucky—All mines in the following counties in western Kentucky:

Butler	Hancock	McLean	Todd
Christian	Henderson	Muhlenberg	Union
Crittenden	Hopkins	Ohio	Warren
Daviess	Logan	Simpson	Webster

District 10. Illinois—All mines in the State.

District 11. Indiana—All mines in the State.

District 12. Iowa—All mines in the State.

District 13
Alabama—All mines in the State.
Georgia—All mines in the State.
Tennessee—All mines in the following counties:

Bledsoe	Hamilton	McMinn	Sequatchie	Warren
Grundy	Marion	Rhea	Van Buren	White

District 14
Arkansas—All mines in the State.
Oklahoma—All mines in the following counties:
Haskell Le Flore Sequoyah

District 15
Kansas—All mines in the State.
Missouri—All mines in the State.
Oklahoma—All mines in the following counties:

Coal	Latimer	Okmulgee	Rogers	Wagoner
Craig	Muskogee	Pittsburg	Tulsa	

Texas—All mines in the State.

District 16
Colorado—All mines in the following counties:

Adams	Boulder	Elbert	Jackson	Larimer
Arapahoe	Douglas	El Paso	Jefferson	Weld

District 17
Colorado—All mines except those included in District 16.
New Mexico—All mines except those included in District 18.

District 18
Arizona—All mines in the State.
California—All mines in the State.
New Mexico—All mines in the following counties:

Grant	McKinley	Sandoval	San Miguel	Socorro
Lincoln	Rio Arriba	San Juan	Santa Fe	

District 19
Idaho—All mines in the State.
Wyoming—All mines in the State.

District 20. Utah—All mines in the State.

District 21
North Dakota—All mines in the State.
South Dakota—All mines in the State.

District 22. Montana—All mines in the State.

District 23
Alaska—All mines in the State.
Oregon—All mines in the State.
Washington—All mines in the State.

District 24. (Pennsylvania Anthracite)
Pennsylvania—
All mines in the following counties: Carbon, Columbia, Dauphin, Lackawanna, Lebanon, Luzerne, Northumberland, Schuylkill, Sullivan, Susquehanna.

[FR Doc. 82-26874 Filed 9-29-82; 8:45 am]
BILLING CODE 6450-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 27, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
						TEXAS RAILROAD COMMISSION			
-AMERICAN PETROFINA COMPANY OF TEXAS						RECEIVED: 09/09/82 JA: TX			
8253563	F-06-045285	4240131139		103		107-TF ESSIE ROSS #1	HENDERSON N (COTTON V	200.0	UNITED GAS PIPE L
-AMOCO PRODUCTION CO						RECEIVED: 09/09/82 JA: TX			
8253766	F-08-053789	4213533590		103		DAVID FASKEN BH #1	FASKEN S (WOLFCAMP)	13.9	AMOCO PRODUCTION
8253767	F-06-053790	4240131331		102-4		107-TF VIRGINIA A GANDY GAS UNIT #1	HENDERSON N (COTTON V	350.0	VALERO TRANSMISSI
-ANDERSON PETROLEUM INC						RECEIVED: 09/09/82 JA: TX			
8253543	F-7C-042073	4243532501		103		107-TF MARY GAYLE DAVIS 4-31	SAWYER (CANYON)	35.0	SUTTON COUNTY PIP
-ANDRESS PETROLEUM INC						RECEIVED: 09/09/82 JA: TX			
8253779	F-02-054051	4239131551		102-4		J WELDER ET AL #8	DEVIL'S RUN (6600)	0.0	TENNESSEE GAS PIP
-ATAPCO						RECEIVED: 09/09/82 JA: TX			
8253664	F-09-051723	4249732098		103		EAST UNIT #18-1 #16204	ALVORD SOUTH (CADDO C	2.1	MITCHELL ENERGY C
-B D K PRODUCTION CO INC						RECEIVED: 09/09/82 JA: TX			
8253653	F-02-050900	4229700000		103		GOEBEL GAS UNIT #2	GOEBEL	0.0	TRANSCONTINENTAL
-BAR-MAR OIL LTD						RECEIVED: 09/09/82 JA: TX			
8253697	F-04-052543	4240931565		103		WINSAUER #1-A	NORTH MATHIS (2800)	44.0	UNITED GAS PIPE L
-BARNHART CO						RECEIVED: 09/09/82 JA: TX			
8253755	F-03-053634	4215731328		102-2		PARKER MINERALS	KATY SOUTH (FIRST WIL	730.0	HOUSTON PIPE LINE
-BEN HOGAN						RECEIVED: 09/09/82 JA: TX			
8253625	F-7B-050156	4209330915		103		GOLDIE HODGES #4	MITTIE (MARBLE FALLS)	37.5	SOUTHWESTERN GAS
8253626	F-7B-050157	4209330885		103		HEATHINGTON UNIT #4	MITTIE (MARBLE FALLS)	36.0	SOUTHWESTERN GAS
-BILL FORNEY INC						RECEIVED: 09/09/82 JA: TX			
8253553	F-02-044283	4229732411		102-4	103	BROOKS HODGES #1 RRC ID #06045	HOUDMAN (PETTUS "C")	5.0	TRANSCONTINENTAL
-BLAIR ENERGY JOINT VENTURE						RECEIVED: 09/09/82 JA: TX			
8253622	F-08-050103	4231732457		103		AMOCO-WALKER #1	SPRABERRY	22.0	ADOBE OIL & GAS C
-BURK ROYALTY CO						RECEIVED: 09/09/82 JA: TX			
8253702	F-09-052697	4223342720		103		O SHEPPARD #1	BOONSVILLE (BEND CONG	109.5	
-CA-TEX PETROLEUM INC						RECEIVED: 09/09/82 JA: TX			
8253642	F-09-050507	4200900000		102-2		MARSHALL A #2	ARCHER COUNTY REGULAR	0.0	MID-STATE GAS COR
-CASHCO OIL CO						RECEIVED: 09/09/82 JA: TX			
8253536	F-03-039161	4218500000		102-4		CHANEY #1	MILL (BUDA)	0.0	LONE STAR GAS CO
-CHAMPLIN PETROLEUM COMPANY						RECEIVED: 09/09/82 JA: TX			
8253780	F-08-054058	4243131123		103		D L GLASS #6	CONGER SW (PENN)	0.0	INTERNORTH INC
8253549	F-03-043020	4205100000		102-2	103	EDWIN ZGABAY #4	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-CHISHOLM OIL INVESTMENTS						RECEIVED: 09/09/82 JA: TX			
8253782	F-01-054077	4217731315		102-2		SCOTTY #1	PEACH CREEK (AUSTIN C	0.0	TIPPERARY CORP
-CIRCLE SEVEN PRODUCTION CO						RECEIVED: 09/09/82 JA: TX			
8253784	F-09-054085	4249932269		103		KIRK #1	BOONESVILLE (BEND CON	0.0	NATURAL GAS PIPEL
-CLARION RESOURCES INC						RECEIVED: 09/09/82 JA: TX			
8253525	F-7B-028522	4214300000		102-4	103	CARAWAY-LOWE #8 86675	LIBERTY OAK (BIG SALI	10.0	NORTHERN GAS PROD
-CLEAR FORK GAS CO						RECEIVED: 09/09/82 JA: TX			
8253637	F-7B-050383	4244731913		102-2		DAVID BELLAH #3	THROCKMORTON COUNTY R	0.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
						RECEIVED: 09/09/82 JA: TX
-COHO RESOURCES INC						
8253596	F-02-048933	4228531584		103	107-TF	RAINOSEK #1
						RECEIVED: 09/09/82 JA: TX
-COMINCO AMERICAN INC						
8253734	F-10-053270	4234130483		108		CLUCK #1
						RECEIVED: 09/09/82 JA: TX
-CPC EXPLORATION INC						
8253548	F-03-043017	4214931159		102-2		PETERS-HAMFF UNIT #1 LEASE NO
						RECEIVED: 09/09/82 JA: TX
-D & B PETROLEUM INC						
*8253605	F-10-049231	4248330978		103		SIDNEY #1
						RECEIVED: 09/09/82 JA: TX
-DALCO PETROLEUM U S LTD						
8253606	F-06-049359	4240131098		102-4	103	E R STRONG #1 PERMIT #103587
8253606	F-06-049359	4240131098		107-TF		E R STRONG #1 PERMIT #103587
8253557	F-06-044773	4218330455		103	107-TF	J H RACHFORD #1 RRC ID #097213
-DAMSON OIL CORPORATION						RECEIVED: 09/09/82 JA: TX
8253654	F-02-050936	4202531395		102-4		RIGGLE-WENDTLAND #1
-DANIEL OIL COMPANY						RECEIVED: 09/09/82 JA: TX
8253579	F-03-047967	4232100000		102-4		PIERCE ESTATE #1
-DELTA DRILLING CO						RECEIVED: 09/09/82 JA: TX
8253744	F-7C-053494	4210500000		103		BEAN "C" #2
8253754	F-7C-053628	4210500000		103	107-TF	ROY HENDERSON "27" #2
-DIAMOND SHAMROCK CORPORATION						RECEIVED: 09/09/82 JA: TX
8253619	F-10-050011	4221131396		103		COLEMAN-GRAHAM #3
8253613	F-10-049638	4221100000		103		J B LINDLEY #3
8253757	F-10-053649	4229531081		103		JOHN R WASSELL "A" 814 #2
8253756	F-10-053646	4235731244		103		S L BRILLHART 823 #3
8253568	F-10-045858	4239330861		103		SUSAN B KAUFMAN #6-81
8253663	F-10-051665	4221100000		103		WAYNE CLEVELAND "C" #5-118
-DORCHESTER GAS PRODUCING CO						RECEIVED: 09/09/82 JA: TX
8253559	F-10-044948	4206500000		108-ER		PAN A #1 (024378)
8253561	F-10-044950	4206500000		108-SA		POWERS #1 (024383)
8253560	F-10-044949	4217900000		108-SA		WILSON-HART #1
-EASON OIL COMPANY						RECEIVED: 09/09/82 JA: TX
8253713	F-03-052843	4224500000		102-2		C B PONTIOUS #1
-ENSERCH EXPLORATION INC						RECEIVED: 09/09/82 JA: TX
8253544	F-06-042262	4220330847		103		DEE KNOX UN 1 #4
8253743	F-02-053471	4212300000		107-PE		E F ANGERSTEIN #1
8253629	F-7C-050245	4213730773		103	107-TF	G D WALLACE 24 #3
8253624	F-7C-050149	4213700000		103	107-TF	G D WALLACE 25 #2
8253617	F-05-049778	4221300000		103		T M MAGERS #2-C
8253633	F-7C-050343	4213700000		103	107-TF	WALLACE 23 #3
-EXXON CORPORATION						RECEIVED: 09/09/82 JA: TX
8253771	F-08-053851	4249531475		103		BROWN ALTMAN B #31
8253748	F-08-053545	4237110798		108		C E MCINTYRE #1
8253727	F-7C-053128	4230332000		103		CYNTHIA MALONE "C" #2
8253696	F-08-052532	4200332914		103		FULLERTON CLEARFORK UNIT #2417
8253623	F-08-050117	4210332669		103		J C TUBB A/C 1 #255L
*8253671	F-03-051936	4215731170		103		J H P DAVIS EST #62-U
8253658	F-03-051381	4247330346		103		KATY GAS FIELD UNIT #2 W-58
8253772	F-04-053900	4242731520		103		MARCOS JUAREZ 7 (10052)
8253677	F-08-052174	4200333069		103		MEANS/SAN ANDRES/UNIT 2420
8253765	F-04-053754	4226131644		103		MRS S K EAST 127-F (10053)
8253717	F-04-052899	4226130661		102-4		MRS S K EAST 129-F (099761)
8253639	F-06-050444	4236500000		108		THOMAS & WOOD #1
-FARGO TRADING CO INC						RECEIVED: 09/09/82 JA: TX

FIELD NAME	PROD	PURCHASER
WORD NORTH (EDWARDS)	0.0	
TEXAS HUGOTON (BROWN	0.0	DIAMOND SHAMROCK
GIDDINGS (BUDA) AUSTI	100.0	PHILLIPS PETROLEU
PANHANDLE EAST	0.0	WARREN PETROLEUM
CHURCH HILL (COTTON V	150.0	ARKANSAS LOUISIAN
CHURCH HILL (COTTON V	150.0	ARKANSAS LOUISIAN
WILLOW SPRINGS (COTTO	300.0	EASTEX GAS TRANSM
RIGGLE-WENDTLAND (135	50.0	VALERO TRANSMISSI
BAY PRAIRIE SOUTH (FR	0.0	DOW CHEMICAL CO
OZONA SW (STRAWN)	0.0	INTERNORTH INC
OZONA (CANYON) FLD	0.0	INTERNORTH INC
CANADIAN SE	0.0	NORTHERN NATURAL
CANADIAN SE	0.0	NORTHERN NATURAL
BRADFORD	224.0	
KIOWA CREEK	64.0	
MENDOTA NW	56.0	
BIG TIMER CREEK	0.0	INTERNORTH INC
WEST PANHANDLE	0.0	INTERNORTH INC
WEST PANHANDLE	0.0	INTER NORTH INC
WEST PANHANDLE	0.0	INTER NORTH INC
(PROPOSED) PORT ACRES	285.0	WINNIE PIPELINE C
WHELAN	638.0	TEXAS EASTERN TRA
COOK SOUTH	324.0	HOUSTON PIPE LINE
SAWYER	0.0	LONE STAR GAS CO
SAWYER	0.0	LONE STAR GAS CO
OPELIKA (RODESSA)	0.0	LONE STAR GAS CO
SAWYER	65.0	LONE STAR GAS CO
EMPEROR EAST (CLEARFO	171.0	WESTAR TRANSMISSI
OATES N E (DEVONIAN)	22.0	INTERNORTH INC
CALVIN (DEAN)	76.0	EL PASO NATURAL G
FULLERTON	15.0	PHILLIPS PETROLEU
SAND HILLS (TUBB)	75.0	EL PASO NATURAL G
THOMPSON SOUTH (4400	18.0	ARMCO STEEL CORP
KATY (WILCOX SPARKS S	219.0	HOUSTON PIPELINE
KELSEY DEEP (ZONE 15-	18.0	TRUNKLINE GAS CO
MEANS	15.0	PHILLIPS PETROLEU
RIIA (10-M)	18.0	NATURAL GAS PIPEL
RIIA (6-F11)	730.0	NATURAL GAS PIPEL
CARTHAGE	0.0	TEXAS EASTERN TRA

JD NO	JA DKT	API NO
8253731	F-04-053181	4200700000
-FEAGAN ENERGY INC		
8253668	F-7C-051824	4241331201
-FEDERAL ENERGY DEVELOPMENT CO		
8253611	F-09-049600	4223734174
-FISHER-WEBB INC		
8253582	F-7B-048096	4244132003
8253615	F-7B-049753	4244100000
-FLORIDA GAS EXPLORATION COMPANY		
8253562	F-7C-045282	4243532583
8253641	F-08-050504	4222732631
-FORBASE - TRAVERSE		
8253698	F-09-052608	4223700000
8253722	F-09-052974	4223700000
-FOREST OIL CORPORATION		
8253584	F-04-048215	4247933189
-FRANK CASS		
8253720	F-7C-052947	4243531993
-GALAXY OIL COMPANY		
8253571	F-03-046420	4204103610
-GEAR PETROLEUM CO INC		
8253739	F-01-053366	4217731130
-GENERAL AMERICAN OIL COMPANY OF TEX		
8253694	F-04-052487	4213100000
-GENERAL OPERATING COMPANY		
8253581	F-10-048028	4223700000
-GENESIS PETROLEUM CORP		
8253778	F-03-054037	4232100000
-GEOSOUTHERN ENERGY CORP		
8253735	F-03-053302	4205100000
8253628	F-03-050212	4205132137
8253627	F-03-050210	4205132117
-GETTY OIL COMPANY		
8253576	F-10-047384	4239330869
8253555	F-05-044574	4216100000
8253632	F-03-050320	4204100080
8253591	F-03-048738	4205100000
8253618	F-03-049924	4205100000
8253634	F-08-050355	4247532236
8253635	F-08050356	4247532234
8253564	F-04-05414	4247900000
8253565	F-04-045416	4247900000
8253570	F-06-046089	4236500000
8253737	F-06-053363	4236500000
-GLENN PETROLEUM CORP		
8253556	F-02-044640	4229732414
-GOLDKING PRODUCTION COMPANY		
8253589	F-03-048512	4232131113
-GUADALUPE EXPLORATION CORP		
8253597	F-10-049015	4208730158
8253573	F-10-046507	4208700000
-GULF OIL CORPORATION		
8253764	F-04-053724	4250531118

D	SEC(1)	SEC(2)	WELL NAME
	102-4		STATE TRACT 261 #1
	RECEIVED:	09/09/82	JA: TX
	103	107-TF	C M WHITTEN #1
	RECEIVED:	09/09/82	JA: TX
	103		JAMESON #2
	RECEIVED:	09/09/82	JA: TX
	103		GROVES #2
	103		JAMES WILLIAMS #1 (RE-ENTRY)
	RECEIVED:	09/09/82	JA: TX
	102-4		FLORENCE 28 #2
	103		STELLA PETTY 32 #2
	RECEIVED:	09/09/82	JA: TX
	102-4		ADRIANCE #1
	103		JOHNSON RITCHIE #1
	RECEIVED:	09/09/82	JA: TX
	102-2	107-TF	VAQUILLAS RANCH CO LTD #14
	RECEIVED:	09/09/82	JA: TX
	103	107-TF	ALLISON-MIERS 7301
	RECEIVED:	09/09/82	JA: TX
	102-2		WILLIS G RITCHIE 42 041 03610
	RECEIVED:	09/09/82	JA: TX
	102-4		MOORE-TEALER #1
	RECEIVED:	09/09/82	JA: TX
	108-ER		J F WELDERHEIRS B #3
	RECEIVED:	09/09/82	JA: TX
	103		RUTH BAILEY #1
	RECEIVED:	09/09/82	JA: TX
	102-4		STATE TRACT 181 #1 (UNASSIGNED)
	RECEIVED:	09/09/82	JA: TX
	102-2		DANIELLE #1
	102-2	103	MARSHA #1
	102-2	103	SHELLY #1
	RECEIVED:	09/09/82	JA: TX
	103		EARP A #1-A
	102-2	107-TF	J R FERGUSON ESTATE #1
	102-2		S T YEAGER #1
	102-2		SEALY SMITH #5
	102-2		SETTEGAST OPERATIONS #2
	107-DP		UNIVERSITY 43-20 #1-L
	107-DP		UNIVERSITY 43-20 #1-U
	102-4	107-TF	VAQUILLAS RANCH #3
	102-4	107-TF	VAQUILLAS RANCH #4
	103	107-TF	WERNER-HULL #3
	103	107-TF	WHITFIELD UNIT #3
	RECEIVED:	09/09/82	JA: TX
	102-4		W N SKAGGS #1 (N/A)
	RECEIVED:	09/09/82	JA: TX
	102-4		CATHERINE SHIRA #1
	RECEIVED:	09/09/82	JA: TX
	103		BRUTON "B" #1
	108		BRUTON B #1
	RECEIVED:	09/09/82	JA: TX
	107-TF		G B VERGARA #4

FIELD NAME	PROD	PURCHASER
BLIND PASS	74.2	CHANNEL INDUSTRIE
ELDORADO N (CANYON -A	0.0	INTERNORTH INC
WORTHINGTON (CONGLOME	120.0	SOUTHWEST GAS PIP
LAKE ABILENE (4000')	15.0	FORT CHADBOURNE C
TAYLOR COUNTY REGULAR	20.0	UNION TEXAS PETRO
PHYLLIS SONORA	67.0	
FLOBAC	0.0	ODESSA NATURAL CO
ANTELOPE SE (MARBLE F	912.5	LONE STAR GAS CO
SHABAY (CONGLOMERATE)	1058.5	LONE STAR GAS CO
GATO CREEK (9800')	582.0	UNITED TEXAS TRAN
SAWYER (CANYON)	210.0	EL PASO NATURAL G
BRYAN (AUSTIN CHALK)	150.0	PRODUCERS GAS CO
PEACH CREEK (AUSTIN C	40.0	VALERO TRANSMISSI
LOMA NOVIA N E	0.0	TENNESSEE GAS PIP
JACK COUNTY REGULAR	4.0	LONE STAR GAS CO
MATAGORDA BAY BLK 181	146.0	LONE STAR GAS CO
GIDDINGS (AUSTIN CHAL	0.0	
GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
GIDDINGS (AUSTIN CHAL	0.0	
N E RED DEER (UPPER M	358.0	EL PASO NATURAL G
SOUTH WINKLER	0.0	
KURTEN (WOODBINE)	110.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
MERIDIAN SOUTH (ELLEN	1497.0	INTRATEX GAS CO
MERIDIAN SOUTH (FUSSE	3869.0	INTRATEX GAS CO
EL GATO (LOWER WILCOX	125.0	TRANSCONTINENTAL
EL GATO (WILCOX-LOBO)	0.0	TRANSCONTINENTAL
CARTHAGE (COTTON VALL	450.0	DELHI GAS PIPELIN
CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
MAXINE E (HART)	50.0	DELHI GAS PIPELIN
SHEPHERDS MOTT (13,70	1048.0	HOUSTON PIPELINE
PANHANDLE EAST	10.6	EL PASO NATURAL G
PANHANDLE	10.6	EL PASO NATURAL G
J C MARTIN (LOBO)	145.0	TENNESSEE GAS PIP

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8253547	F-09-042945	4218130784		102-4		H BLOUNT #1
8253684	F-10-052313	4229531005		103		HAROLD PEERY #4-766
8253718	F-10-052900	4221131421		103		ISAACS-SIMPSON #3-214
8253538	F-09-041568	4218130686		102-4		JIM HALLIBURTON #1
8253650	F-09-050789	4218130860		102-4		R W KLAS #1
8253620	F-09-050058	4218130846		102-4		ROBERT H JOHNSON #1
8253675	F-09-051953	4218130863		102-4		ROBERT J TATE #2
8253751	F-04-053590	4250531139		103	107-TF	S URIBE WELL NO 6
8253752	F-04-053592	4250531140		103	107-TF	S URIBE WELL NO 7
8253682	F-06-052233	4218330524		102-4	107-TF	T G WILLIAMS UNIT #1
-H L BROWN JR				RECEIVED:	09/09/82	JA: TX
8253690	F-08-052399	4230130265		102-4		RED BLUFF 12 096751
-HEYDRICK PETROLEUM CO				RECEIVED:	09/09/82	JA: TX
8253657	F-09-051208	4207730391		102-4		A VEITENHEIMER #1-B RRC#19988
-HNG OIL COMPANY				RECEIVED:	09/09/82	JA: TX
8253788	F-7C-054100	4243500000		103	107-TF	FRIESS 8 #3
-HOWELL DRILLING INC				RECEIVED:	09/09/82	JA: TX
8253703	F-02-052698	4228500000		102-4		G H GERDES JR GAS UNIT #1
-HUFO OILS				RECEIVED:	09/09/82	JA: TX
8253609	F-10-049509	4234130751		103		BRENT 60-1
8253610	F-10-049510	4234130768		103		BRENT 60-2
8253614	F-10-049689	4234130656		103		BRENT 61-2
-HUGHES & HUGHES OIL AND GAS				RECEIVED:	09/09/82	JA: TX
8253760	F-04-053682	4235531592		102-4		JOHN NORRIS "A" - 1
8253792	F-04-054180	4247933292		102-4	107-TF	LINCOLN ESTATE #3
-HUMBLE EXPLORATION CO INC				RECEIVED:	09/09/82	JA: TX
8253529	F-01-032827	4217730684		102-2	103	ROSETTA #1 - 66706
-HUNT OIL COMPANY				RECEIVED:	09/09/82	JA: TX
8253789	F-08-054119	4230130328		107-DP		GLENN S BRUNSON "17" #1
-HYQUEST ENERGY INC				RECEIVED:	09/09/82	JA: TX
8253600	F-03-049151	4248132222		102-4		HENDERSON #1
-INDEPENDENT EXPLORATION CO				RECEIVED:	09/09/82	JA: TX
8253662	F-03-051614	4224531551		102-4		GILL (NO ID # ASSIGNED)
8253785	F-01-054089	4250731120		102-4		HUBERT #2C
8253786	F-01-054090	4250731120		102-4		HUBERT #2T
8253742	F-7B-053427	4236332539		102-4		JONES #2
-INWOOD EXPLORATION INC				RECEIVED:	09/09/82	JA: TX
8253749	F-7B-053548	4236732233		102-4		JACKSON #1
-J B DAVIS PIPE CO INC				RECEIVED:	09/09/82	JA: TX
8253531	F-7B-036224	4236300000		103		RIEBE #2 ID #93003
-J M HUBER CORPORATION				RECEIVED:	09/09/82	JA: TX
8253695	F-10-052514	4223331214		103		PERKY #17
-JACKSON EXPLORATION INC				RECEIVED:	09/09/82	JA: TX
8253738	F-7C-053365	4244330259		102-4	103	INGHAM "6" #1
-JOHN L COX				RECEIVED:	09/09/82	JA: TX
8253539	F-7C-041786	4246131805		103		BARNET #1 RRC #NA
8253551	F-7C-043624	4246131793		103		GRESHAM #1 RRC #09393
8253552	F-7C-043755	4246131842		103		NEAL "20-B" #2 RRC NA
8253608	F-7C-049469	4223500000		103		ROCKER B "GG" #4-X ROC #06138
-JOYCE & HILTY INC				RECEIVED:	09/09/82	JA: TX
8253554	F-03-044440	4236130359		102-4		R P SINGLETON #1
-KAISER OIL (US) LTD				RECEIVED:	09/09/82	JA: TX
8253566	F-05-045654	4234931781		103	107-TF	HOWARD PARKER #1

FIELD NAME	PROD	PURCHASER
N E SOUTHMAYD	4.0	LONE STAR GAS CO
PEERY CLEVELAND	30.0	TRANSWESTERN PIPE
CANADIAN S E	120.0	PIONEER NATURAL G
N E SOUTHMAYD	3.0	LONE STAR GAS CO
N E SOUTHMAYD	320.0	LONE STAR GAS CO
N E SOUTHMAYD	288.0	LONE STAR GAS CO
N E SOUTHMAYD	5.0	LONE STAR GAS CO
J C MARTIN (LOBO)	800.0	TENNESSEE GAS PIP
J C MARTIN (LOBO)	730.0	TENNESSEE GAS PIP
LANSING N	365.0	TEXAS EASTERN TRA
RED BLUFF (WOLFCAMP)	1.2	EL PASO NATURAL G
ARROWHEAD (CADDO)	1.5	FAGADAU ENERGY CO
SAWYER (CANYON)	511.0	INTRATEX GAS CO
JANSKY	0.0	VALERO TRANSMISSI
BRENT (PANHANDLE MOOR	0.0	PANHANDLE EASTERN
BRENT (PANHANDLE MOOR	0.0	PANHANDLE EASTERN
BRENT (PANHANDLE MOOR	0.0	PANHANDLE EASTERN
MINNIE BOCK W (7880)	548.0	DELHI GAS PIPELIN
LINCOLN (LOBO VI 7950	183.0	HOUSTON PIPE LINE
PEACH CREEK (AUSTIN C	63.2	VALERO TRANSMISSI
PINAL DOME (LOWER WOL	1080.0	
HENDERSON (MIOCENE 25	110.0	TRUNKLINE GAS CO
WILDCAT (NEW FIELD DE	19.4	MINNIE PIPELINE C
PRYOR EAST (OLMOS)	0.0	VALERO TRANSMISSI
PRYOR EAST (SAN MIGUE	0.0	VALERO TRANSMISSI
SCATTER (BEND)	18.3	SOUTHWESTERN GAS
DOUGLAS (BIG SALINE)	307.0	INTRASTATE GATHER
BRAZOS (STRAWN)	21.5	LONE STAR GAS CO
PANHANDLE	3.0	COLORADO INTERSTA
MESA GRANDE (DEVONIAN	60.0	LINK SYSTEMS INC
BENEDUM (FUSSELMAN)	20.0	UNION TEXAS PETRO
SPRABERRY (TREND AREA	10.0	UNION TEXAS PETRO
SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
WORTHAM (HACKBERRY)	0.0	SEAGULL PIPELINE
ROUND PRAIRIE (HAYNES	450.0	DELHI GAS PIPELIN

JD NO	JA DKT	API NO
-KAISER-FRANCIS OIL COMPANY		
8253580	F-10-048007	4221100000
8253524	F-10-020838	4242100000
-KERR-MCGEE CORPORATION		
8253652	F-10-050875	4221131325
-KILLAM & HURD LTD		
8253607	F-04-049397	4247933202
8253724	F-04-053019	4247900000
-LADD PETROLEUM CORPORATION		
8253567	F-08-045698	4237133325
-LMG RESOURCES INC		
8253598	F-08-049058	4210332800
-M BRAD BENNETT		
8253701	F-08-052645	4247532557
-MARSHALL EXPLORATION INC		
8253601	F-06-049178	4220330850
-MCCLYMOND BROTHERS		
8253729	F-7B-053171	4242933016
-MCFARLANE OIL CO INC		
8253590	F-05-048729	4216130681
-MCGOLDRICK OIL COMPANY		
8253700	F-06-052625	4240131253
-MEWBOURNE OIL COMPANY		
8253726	F-10-053113	4229531157
-MGF OIL CORP		
8253768	F-7B-053796	4235300000
8253541	F-7C-041830	4238300000
-MILES PRODUCTION CO		
8253651	F-09-050866	4208300000
-MINERAL DEVELOPMENT CO LTD #3		
8253705	F-03-052745	4220131188
-MITCHELL ENERGY CORPORATION		
8253781	F-09-054065	4249732377
8253678	F-09-052201	4249700000
8253746	F-7B-053516	4236732274
8253572	F-09-046449	4249700000
8253520	F-09-004094	4249700000
8253577	F-09-047771	4249700000
8253681	F-09-052211	4249700000
8253680	F-09-052204	4249700000
8253522	F-09-017053	4249700000
8253546	F-7B-042362	4236700000
8253518	F-09-004037	4249700000
8253604	F-09-049183	4249700000
8253545	F-09-042358	4249700000
8253603	F-09-049182	4236700000
8253602	F-09-049181	4223700000
8253679	F-7B-052203	4236700000
8253519	F-09-004046	4249700000
-MOBIL PRDG TEXAS & NEW MEXICO INC		
8253646	F-06-050576	4207330444
8253643	F-10-050522	4221131285
-MR OIL CO		

D	SEC(1)	SEC(2)	WELL NAME
	RECEIVED:	09/09/82	JA: TX
	102-2	103	L L JONES #1-16
	108-SA		WALTER LASLEY "A"
	RECEIVED:	09/09/82	JA: TX
	103		MARY JONES #6
	RECEIVED:	09/09/82	JA: TX
	102-4	107-TF	BRUNI MINERAL "B" #2
	102-4	107-TF	KILLAM & HURD FEE WELL # 3-1569
	RECEIVED:	09/09/82	JA: TX
	107-DP		GOMEZ SOUTH UNIT #2-A
	RECEIVED:	09/09/82	JA: TX
	103		UNIVERSITY "48-A" #2
	RECEIVED:	09/09/82	JA: TX
	102-4	103	CROUCH #1
	RECEIVED:	09/09/82	JA: TX
	103		FRANK RESCH #1
	RECEIVED:	09/09/82	JA: TX
	103		MISS SARAH 098318
	RECEIVED:	09/09/82	JA: TX
	103	107-TF	H E WHITE #1
	RECEIVED:	09/09/82	JA: TX
	102-2	107-TF	STELLA PITNER GAS UNIT #1 WELL #1
	RECEIVED:	09/09/82	JA: TX
	103		BURCHFIEL "B" #2 RRC ID #
	RECEIVED:	09/09/82	JA: TX
	108		SEARS #3-30
	103		UNIVERSITY "18-A" #1
	RECEIVED:	09/09/82	JA: TX
	102-4		M P HOEFLE "F" #1
	RECEIVED:	09/09/82	JA: TX
	103		SUPERIOR HOMES UNIT #1
	RECEIVED:	09/09/82	JA: TX
	103		ANNA MOODY #2
	108		BERNICE PEEK #2 #44005
	103		C L CAVNESS #5
	108		C P SMITH B #2 49254
	108-ER		CARL C KAKER #1
	108		CORA TAYLOR #1 ID #28833
	108		E G GASPERSON #1 #28654
	108		EARL MOONEY #1 #28745
	108-ER		FLAVIS GREER #2 (17350)
	108		G D WILEY #1 91453
	108-ER		G W RAMSEY #1
	108		H D JENNINGS #1 #42449
	108		J C CHAMPION #3 90440
	108		L E SMITH #1 35937
	108		LINDSEY RANCH #3 18906
	108		N G WATKINS #1 #74683
	108-ER		R T MIZE #1 28743
	RECEIVED:	09/09/82	JA: TX
	102-4		BARRON GAS UNIT #1
	102-4		LESTER B URSCHEL #21
	RECEIVED:	09/09/82	JA: TX

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FIELD NAME	PROD	PURCHASER
ALLISON PARKS	500.0	PALO DURO PIPELIN
TEXAS HUGOTON FIELD	13.0	PHILLIPS PETROLEU
HEMPHILL (DOUGLAS)	476.0	PIONEER NATURAL G
JUANITA (LOBO)	0.0	HOUSTON PIPELINE
JUANITA (LOBO)	0.0	UNITED TEXAS TRAN
GOMEZ (DEVONIAN - FUS	521.4	NORTHERN NATURAL
MCELROY	9.8	PHILLIPS PETROLEU
COLLIE (DELAWARE)	91.2	INTRATEX GAS CO
GOOCH (TRAVIS PEAK)	180.0	TEXAS EASTERN TRA
LAKESIDE (CONGL 3960'	0.0	WARREN PETROLEUM
MIMMS CREEK (BOSSIER)	0.0	DELHI GAS PIPELIN
CYRIL (COTTON VALLEY)	400.0	UNITED GAS PIPELI
MAMMOTH CREEK NORTH (	164.0	INTERNORTH INC
LAKE SWEETWATER (STRA	33.0	
SPRABERRY (TREND AREA	0.0	J L DAVIS
ANTELOPE S E (MARBLE	2.5	SOUTHWESTERN GAS
ALDINE-YEGUA "MOORE #	275.0	HOUSTON PIPE LINE
BOONSVILLE (BEND CONG	367.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	13.7	NATURAL GAS PIPEL
RENO (CONGL)	11.5	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	13.0	NATURAL GAS PIPEL
BOONSVILLE BEND CONG	1.4	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	11.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	13.8	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	12.6	NATURAL GAS PIPEL
MORRIS	15.0	NATURAL GAS PIPEL
CARTER CREEK (BEND)	6.0	SOUTHWESTERN GAS
BOONSVILLE (ATOKA CON	11.6	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	13.3	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	12.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	12.6	NATURAL GAS PIPEL
KRAMBERGER (ATOKA CON	13.0	SOUTHWESTERN GAS
LAKE MIN WELLS (4000	14.0	NATURAL GAS PIPEL
BOONSVILLE BEND CONG	20.1	NATURAL GAS PIPEL
PERCY WHEELER (TRAVIS	24.6	
WILDCAT	0.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8253728	F-08-053165	4249500000		103		UNIVERSITY "A" #1 #25636
-NORTHRIDGE OIL CO				RECEIVED:	09/09/82	JA: TX
8253730	F-09-053177	4249732399		103		HERRIOTT #1
-OTIS ENERGY INC				RECEIVED:	09/09/82	JA: TX
8253689	F-7B-052386	4213300000		102-2		R W KINDEL #1
8253688	F-7B-052384	4213300000		102-2		R W KINDEL #2
8253687	F-7B-052383	4213300000		103		RICE #1
-PALO PETROLEUM INC				RECEIVED:	09/09/82	JA: TX
8253673	F-7C-051946	4238332108		103		UNIVERSITY 11-BLK 12 #1
8253672	F-7C-051941	4238332107		103		UNIVERSITY 12-BLK 12 #2
8253674	F-7C-051949	4238332106		103		UNIVERSITY 12-BLK12 #1
8253583	F-7C-048101	4238332008		103		VESTER HUGHES A #1
-PANHANDLE PRODUCING COMPANY				RECEIVED:	09/09/82	JA: TX
8253558	F-7B-044906	4244100000		103		BLAND #1
-PAUL F BARNHART				RECEIVED:	09/09/82	JA: TX
8253636	F-03-050370	4215731167		102-4	103	BARNHART CO E D WILMONT UNIT #1
-PEND OREILLE OIL & GAS CO				RECEIVED:	09/09/82	JA: TX
8253621	F-04-050065	4229732521		102-4		STATE TRACT # 26 WELL #1
-PENINSULA RESOURCES CORPORATION				RECEIVED:	09/09/82	JA: TX
8253578	F-04-047912	4227331628		102-4		WILSON RAY UNIT #1-C
-PENNZOIL PRODUCING COMPANY				RECEIVED:	09/09/82	JA: TX
8253532	F-04-03637	4221500997		108-ER		MONTGOMERY UNIT NO 2-M
-PHARAOH & ASSOCIATES INC				RECEIVED:	09/09/82	JA: TX
8253540	F-03-041792	4205100000		102-2	103	ALVIN HEIN #3
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	09/09/82	JA: TX
8253542	F-10-041949	4223300000		108		INGERTON E #1
8253763	F-10-053705	4234100000		108		LASATER A #1
8253574	F-09-047034	4249732031		103		MUNICIPAL #6
8253750	F-10-053568	4223300000		108		POOL R L #2
-PIONEER PRODUCTION CORPORATION				RECEIVED:	09/09/82	JA: TX
8253527	F-10-031966	4229500000		108-ER		FAGG UNIT #1-L (30697)
8253521	F-10-007076	4229500000		108-ER		IMKE UNIT #1 33134
8253523	F-10-018974	4229500000		108-ER		L M DRAPER #1 RRC ID #22398
-PRICE DRILLING & EXPLORATION CO				RECEIVED:	09/09/82	JA: TX
8253537	F-04-041031	4227932140		102-4		VAQUILLAS RANCH #1-267
-PRODECO EXPLORATIONINC				RECEIVED:	09/09/82	JA: TX
8253769	F-03-053802	4204130726		102-2		PULTS UNIT II #1
-PRODUCTION LEASE SERVICE INC				RECEIVED:	09/09/82	JA: TX
8253777	F-7C-054036	4243532554		103	107	-TF WEST - ANDERSON #1
-R K G ENGINEERING INC				RECEIVED:	09/09/82	JA: TX
8253599	F-08-049150	4237133672		103		IOWA REALTY TRUST
-RAIDER OIL CORP				RECEIVED:	09/09/82	JA: TX
8253640	F-09-050470	4207732447		102-4		S C MATLOCK #1 RRC ID #21657
-RETAMCO INC				RECEIVED:	09/09/82	JA: TX
8253736	F-03-03329	4214930972		102-2		E A ARNIM #1
8253721	F-03-052964	4214931006		102-2		EDWIN ZIMMERHANZEL #1
-RIDGE OIL CO				RECEIVED:	09/09/82	JA: TX
8253685	F-09-052317	4250335678		102-4	103	SABINE ROYALTY CO #1
-RUST OIL CORP				RECEIVED:	09/09/82	JA: TX
8253588	F-7B-048391	4225300000		103		ODELL FREEMAN #1
8253586	F-7B-048389	4225300000		103		ODELL FREEMAN #2
8253585	F-7B-048388	4225300000		102-4		ODELL FREEMAN #2A
8253587	F-7B-048390	4225300000		103		ODELL FREEMAN "A" #1

FIELD NAME	PROD	PURCHASER
WAR-WINK (DELAWARE 50	7.0	PHILLIPS PETROLEU
BOONSVILLE (BEND CONG	365.0	TEXAS UTILITIES F
EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL CO
EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL CO
EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL CO
SPRABERRY (TREND AREA	0.0	
SPRABERRY (TREND AREA	0.0	
SPRABERRY (TREND AREA	0.0	
SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
BLAIR NORTH (ELLENBUR	0.0	LONE STAR GAS CO
KATY SOUTH FIELD	730.0	HOUSTON PIPE LINE
PORTLAND S (MORRIS) F	457.0	HOUSTON PIPE LINE
MAY S (7550 PROPOSED)	365.0	TEXAS EASTERN TRA
SAN CAROLOS (FF-18)	15.0	TRUNKLINE GAS CO
CALDWELL (AUSTIN CHAL	0.0	CLAJON GAS CO
TEXAS HUGOTON	0.0	EL PASO NATURAL G
PANHANDLE-WEST	0.0	EL PASO NATURAL G
BOONSVILLE BEND CONGL	150.0	LONE STAR GAS PRO
PANHANDLE-WEST	0.0	EL PASO NATURAL G
MAMMOTH CREEK	0.0	INTERNORTH INC
NORTH MAMMOTH CREEK	12.8	NORTHERN NATURAL
NORTH MAMMOTH CREEK	1.7	NORTHERN NATURAL
CAROLINA-TEX S W (194	36.0	VALERO TRANSMISSI
KURTEN (WOODBINE)	0.0	PRODUCER'S GAS CO
INTERSTATE (CANYON)	48.0	PRODUCER'S GAS CO
PECOS VALLEY SOUTH (D	0.0	PERRY PIPELINE CO
DILLARD SOUTHEAST ATO	237.0	TEXAS UTILITIES F
GIDDINGS (BUDA)	3.7	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	80.3	PHILLIPS PETROLEU
JEAN SOUTH (CONGL 430	115.0	EAGLE-THRIFTWAY G
NOODLEKIRK (ELLENBURG	3.0	PALO DURO PIPELIN
NOODLEKIRK (ELLENBURG	3.0	PALO DURO PIPELIN
JAY (STRAWN)	70.0	PALO DURO PIPELIN
NOODLEKIRK (ELLENBURG	10.0	PALO DURO PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-SAGE ENERGY CO						
8253649	F-03-050708	4205100000				RECEIVED: 09/09/82 JA: TX
8253648	F-03-050704	4205100000		102-2		BIRCH CREEK "K" #1 RRC# 15727
8253704	F-03-052721	4205100000		102-2		BIRCH CREEK "L" UNIT #1 RRC #15731
-SANDSTONE PETROLEUM CO				102-2		WOMBLE #1 RRC #15730
8253644	F-10-050566	4206530932				RECEIVED: 09/09/82 JA: TX
8253645	F-10-050567	4206530951		103		DEAL #1
-SANTA FE-WINDSOR PRODUCING CO				103		DEAL #2
8253762	F-03-053686	4228731223				RECEIVED: 09/09/82 JA: TX
-SAXON OIL COMPANY				102-2	103	ROADRUNNER #3
8253791	F-08-054170	4231700000				RECEIVED: 09/09/82 JA: TX
8253741	F-7C-053420	4246100000		103		GARNER #1
-SCANDRILL CO				103		HANKS "B" #2
8253530	F-09-033300	4223733422				RECEIVED: 09/09/82 JA: TX
-SHELL OIL CO				102-4	103	KINDER #1
8253666	F-04-051747	4221531218				RECEIVED: 09/09/82 JA: TX
*8253715	F-8A-052873	4250131934		102-4		BRIGHT & SCHIFF HAMNAN GAS UNIT #3
*8253716	F-8A-052874	4250131950		103		DENVER UNIT #4439 GC (GAS CAP)
*8253774	F-8A-053972	4250132052		103		DENVER UNIT #5517 GC (GAS CAP)
*8253775	F-8A-053973	4250132102		103		DENVER UNIT #5816
*8253732	F-8A-053182	4216532065		103		DENVER UNIT #5817
8253638	F-08-050445	4247500000		103		DENVER UNIT #8425
8253535	F-10-038710	4229500000		108		SEALY SMITH FDN #147
-SHOW PETROLEUM INC				108-ER		SHELL WHEAT #3-764
8253699	F-7B-052614	4213332924				RECEIVED: 09/09/82 JA: TX
-SOUTHLAND ROYALTY CO				102-4		HUNT #G-1
8253753	F-7B-053598	4208332824				RECEIVED: 09/09/82 JA: TX
-SPINDLETOP OIL & GAS CO				103		NOVICE 8022
8253693	F-7B-052416	4236732151				RECEIVED: 09/09/82 JA: TX
8253692	F-7B-052415	4236732142		102-4		COPELAND #1
8253691	F-7B-052414	4236732129		102-4		FITZWILLIAM #1
-SUN EXPLORATION & PRODUCTION CO				102-4		WILSON-HARRIS #1
8253790	F-04-054152	4242731604				RECEIVED: 09/09/82 JA: TX
8253776	F-04-053991	4242731557		103		BARRERA STATE #1
8253745	F-04-053507	4204730989		103		C L GUZMAN #2
8253770	F-06-053808	4236531261		102-4		D J SULLIVAN #12L
8253759	F-04-053681	4242731572		103	107-TF	FRED KYLE UNIT #3
8253740	F-10-053413	4223330828		102-4		I V MONTALVO "A" #18L
8253706	F-10-052777	4248330860		103		KIRK GAS UNIT #2
-T M QUIGLEY				107-DP		R N BYERS #1
8253761	F-04-053684	4242730396				RECEIVED: 09/09/82 JA: TX
-TARINA OIL CO				102-4		M SAMANO #3
8253569	F-01-046009	4228300000				RECEIVED: 09/09/82 JA: TX
-TAYLOR OPERATING COMPANY				108-ER		C N COOKE C #1 8217773
8253723	F-09-053006	4223700000				RECEIVED: 09/09/82 JA: TX
-TED MCCANN & ASSOCIATES INC				103		HOLLISTER-RITCHIE #1
8253773	F-7C-053912	4243532693				RECEIVED: 09/09/82 JA: TX
-TENNECO OIL COMPANY				103	107-TF	JOHN D FIELDS #1-48
8253733	F-04-053269	4221531169				RECEIVED: 09/09/82 JA: TX
8253550	F-8A-043115	4203330663		103	107-TF	A A MCALLEN #10
-TERRA RESOURCES INC				103		PHILLIPS CLAYTON JOHNSON 2-8
8253683	F-04-052267	4213135506				RECEIVED: 09/09/82 JA: TX
-TEXACO INC				102-4		FROST NATIONAL BANK & TRUST #2
						RECEIVED: 09/09/82 JA: TX

FIELD NAME	PROD	PURCHASER
GIDDINGS (AUSTIN CHAL	144.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	225.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	19.4	PHILLIPS PETROLEU
PANHANDLE	0.0	PANHANDLE EASTERN
PANHANDLE	0.0	PANHANDLE EASTERN
GIDDINGS (AUSTIN CHAL	365.0	PERRY PIPELINE CO
BREEDLOVE EAST (SPRAB	0.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	0.0	MOBIL PRODUCING T
SCANROCK CONGLOMERATE	145.3	TEXAS UTILITIES F
MONTE CHRISTO (VKSBG-	450.0	VALERO INTERSTATE
WASSON	91.3	SHELL OIL CO
WASSON	91.3	SHELL OIL CO
WASSON	5.8	SHELL OIL CO
WASSON	37.2	SHELL OIL CO
WASSON	36.5	SHELL OIL CO
MONAHANS (CLEAR FORK)	8.5	EL PASO NATURAL G
KIOWA CREEK	0.0	PHILLIPS PETROLEU
DESDEMONA N (CONGL)	17.0	NORTHERN GAS PROD
NOVICE UNIT	380.0	LONE STAR GAS CO
WHISKEY FLAT (LOWER A	15.0	SOUTHWESTERN GAS
WHISKEY FLAT (LOWER A	90.0	SOUTHWESTERN GAS
WHISKEY FLAT (LOWER A	45.0	SOUTHWESTERN GAS
LA COPITA (4900)	38.0	
GARCI	98.0	
FLOWELLA/VICKSBURG 4	742.0	
CARTHAGE	671.0	DELHI GAS PIPELIN
SUN NORTH	299.0	
LIPS WEST (CLEVELAND)	291.0	INTERNORTH INC
WILDCAT	0.0	PALO DURO PIPE LI
YTURRIA (FRIO C-1) FI	36.0	SUN EXPLORATION A
COOKE	0.0	TRANSCONTINENTAL
SHABAY (CONGLOMERATE)	167.9	LONE STAR GAS CO
SAWYER (CANYON)	200.0	EL PASO NATURAL G
MCALLEN RANCH	837.0	CHANNEL INDUSTRIE
LUCKPOT (FUSSELMAN)	0.0	GETTY OIL CO
RANCHO SOLO (BRUNI)	561.0	VALERO TRANSMISSI

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8253656	F-04-051187	4224731394		102-4		A K EAST #24
8253714	F-08-052855	4210931577		102-4		CULBERSON "AC" FEE #1
8253783	F-8A-054084	4250132070		103		ROBERTS UNIT #3536
				RECEIVED:	09/09/82	JA: TX
-TEXAS OIL & GAS CORP						
8253595	F-04-048894	4226130397		102-4		ERCK #4
8253667	F-10-051771	4229530523		108-ER		SCHULTZ "C" #1
				RECEIVED:	09/09/82	JA: TX
-THROCKMORTON GAS SYSTEMS						
8253533	F-7B-036897	4244731985		102-2		RICHARDS #1-A
8253534	F-7B-037140	4244731164		102-4		W L RICHARDS #3-B 74215
				RECEIVED:	09/09/82	JA: TX
-TRAVELERS OIL CO						
8253707	F-10-052783	4217930593		108		CHRIS #1 04264
8253708	F-10-052784	4217900000		108		CHRIS #2 04264
8253709	F-10-052785	4217930592		108		GINNY #1 04265
8253710	F-10-052786	4217900000		108		GINNY #2 04265
8253711	F-10-052788	4217900080		108		HEIDI #2 04196
8253712	F-10-052790	4217900000		108		TIMMY #1 04577
				RECEIVED:	09/09/82	JA: TX
-TRINITY RESOURCES INC						
8253665	F-02-051737	4223931724		102-4	103	JOHN C DUGGER
				RECEIVED:	09/09/82	JA: TX
-TXO PRODUCTION CORP						
8253593	F-04-048809	4250531475		102-4		GUERRA N-1
8253616	F-02-049769	4229732842		102-4		ROARK G U A-1
8253669	F-05-051852	4216100000		103	107-TF	TEAGUE G U #1-3
8253630	F-03-050277	4208931045		102-4		YOUENS GAS UNIT WELL #2
8253612	F-02-049627	4229732107		102-4		ZAMZOW A-1
				RECEIVED:	09/09/82	JA: TX
-U S OPERATING INC						
8253647	F-03-050644	4228731053		102-2		ALFREDA UNIT #1 RRC ID N/A
8253594	F-03-048873	4205131913		102-2		HAZEL #1 RRC ID N/A
				RECEIVED:	09/09/82	JA: TX
-UNION OIL COMPANY OF CALIF						
8253659	F-03-051439	4214931121		102-2		T W COOPER #1
				RECEIVED:	09/09/82	JA: TX
-UNION TEXAS PETROLEUM						
8253686	F-7C-052369	4210533794		103	107-TF	MONTGOMERY 2 #2
				RECEIVED:	09/09/82	JA: TX
-VAN OIL CORP						
8253758	F-7B-053658	4213300000		102-4		J S BROWN #1
				RECEIVED:	09/09/82	JA: TX
-VOLVO PETROLEUM INC						
8253592	F-03-048773	4233930501		102-4		FRIENDSWOOD DEVELOPMENT #1
				RECEIVED:	09/09/82	JA: TX
-W M LAUGHLIN						
8253575	F-04-047332	4224931455		102-4		A MENDOZA #2
				RECEIVED:	09/09/82	JA: TX
-WAINOCO OIL & GAS CO						
8253676	F-05-052118	4216130688		102-4	107-TF	MARSTERS #1
				RECEIVED:	09/09/82	JA: TX
-WAY OIL CO						
8253661	F-7B-051546	4236332815		102-2		WALTER #1 ID-APPLIED FOR
				RECEIVED:	09/09/82	JA: TX
-WAYMAN W BUCHANAN						
8253660	F-10-051516	4229531128		103		LAUBHAN #1
				RECEIVED:	09/09/82	JA: TX
-WCS PETROLEUM INC						
8253787	F-03-054096	4238731247		102-2		COLENE GAEKE #1
				RECEIVED:	09/09/82	JA: TX
-WESTCHASE PETROLEUM CORP						
8253719	F-02-052944	4246931853		103		DENTLER #1
				RECEIVED:	09/09/82	JA: TX
-WILLIAM PERLMAN						
8253526	F-7C-028899	4243532397		102-4	103	DAN CAUTHORN 134-2 91470
				RECEIVED:	09/09/82	JA: TX
-WINN EXPLORATION/DULCE CO						
8253655	F-01-051076	4250700000		102-4		PRYOR RANCH 58
				RECEIVED:	09/09/82	JA: TX
-WJC ENGINEERING & MANAGEMENT						
8253725	F-7B-053047	4213333181		102-2		ALDERMAN #1

FIELD NAME	PROD	PURCHASER
BLACK DIAMOND EAST	14.0	VALERO TRANSMISSI
GERALDINE	3.0	EL PASO NATURAL G
MASSON	0.0	SHELL OIL CO
MCGILL (7950')	50.0	FLORIDA GAS TRANS
MAMMOTH CREEK NORTH (	0.0	TRANSWESTERN PIPE
THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
RICHARDS RANCH /1830/	0.0	WARREN PETROLEUM
PANHANDLE GRAY COUNTY	0.0	
PANHANDLE GRAY COUNTY	0.0	
PANHANDLE GRAY COUNTY	0.0	
PANHANDLE GRAY COUNTY	0.0	
PANHANDLE GRAY COUNTY	0.0	
PANHANDLE GRAY COUNTY	0.0	
WILDCAT	164.0	
LOPENO S W (WILCOX 73	0.0	DELHI GAS PIPELIN
OAKVILLE (WILCOX 9700	0.0	DELHI GAS PIPELIN
TEAGUE S (COTTON VALL	0.0	
CECIL NOBLE (7600')	0.0	TENNESSEE GAS PIP
RAY POINT N (LULING)	0.0	UNITED GAS PIPELI
GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
GIDDINGS	123.0	CLAJON GAS CO
OZONA (CANYON SAND)	857.8	INTERNORTH INC
FAIR (MARBLE FALLS LO	361.0	NORTHERN GAS PROD
FRIENDSWOOD DEVELOPME	360.0	ENDEVCO NATURAL G
ASOG	105.0	VALERO ENERGY COR
STEWARDS MILL NE (CVL	730.0	LONE STAR GAS CO
PALO PINTO S W (STRAW	110.0	SOUTHWESTERN GAS
LIPSCOMB (MORROW)	638.8	TRANSWESTERN PIPE
GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
SCHROEDER (FRIO 3100'	231.0	TEXAS UTILITIES F
NORTH CAUTHORN (STRAW	0.0	EL PASO NATURAL G
WINN-DULCE	0.0	VALERO TRANSMISSI
EASTLAND COUNTY REGUL	54.7	NORTHERN GAS PROD

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-WOOD MCSHANE & THAMS				RECEIVED:	09/09/82	JA: TX			
8253747	F-08-053542	4200333172		103		LITTMAN #104 RRC #26861	LITTMAN (SAN ANDRES)	73.0	GETTY OIL CO
-WOODS PETROLEUM CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253670	F-8A-051859	4207931513		102-4	103	RJR RANCH #5-2	BONANZA (SAN ANDRES)	5.0	WARREN PETROLEUM
-WORLDWIDE ENERGY CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253528	F-06-032277	4242330430		102-4		DENMAN #A-4	SUNSHINE (RODESSA)	0.0	SEMCO GAS INC
-ZONERGY INC				RECEIVED:	09/09/82	JA: TX			
8253631	F-01-050370	4217731312		102-2		NIXON #4	PEACH CREEK (BUDA)	0.0	TIPPERARY CORP

CORRECTIONS TO PREVIOUS NOTICES/REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
81-06162	OK	May Petroleum	Suthers #1	329	12-12-80	C:	102-2 & 103 Approved
82-05629	OH	Nedco Inc	Walter Ullman #5	550	12-14-81	C:	107-DV Approved; not 107-TF
82-11630	OK	Kaiser-Francis Oil Co	Spurlin #1	579	01-22-82	C:	102-4 & 103 Approved
82-23740	TX	Hanley Co	University 2-36A(09201) #1	628	04-13-82	C:	103 Approved; not 108
82-24545	WV	Industrial Gas Asso.	James No. 3 DOD-2362	631	04-14-82	C:	Well Name
82-35007	NM	Yates Petroleum Corp	Sparrow "SP" ST #1	672	06-28-82	C:	102-2 & 107-TF Approved
82-35032	NM	Yates Petroleum Corp	Rook "RK" St #4	672	06-28-82	C:	102-2 & 107-TF Approved
82-35676	NM	Yates Petroleum Corp	Grynberg "LZ" ST #3	673	06-28-82	C:	102-2 & 107-TF Approved
82-35677	NM	Yates Petroleum Corp	Margaret "RQ" St #2	673	06-28-82	C:	102-2 & 107-TF Approved
82-37136MMS(NM)		ARCO Oil & Gas	Justis Federal #3-Y	678	07-06-82	C:	Approved by MMS(NM)
82-37473	TX	Morrow Resources Inc	Matthews #3	679	07-06-82	C:	102-2 & 103 Approved; not 107-TF
82-39243	TX	Mitchell Energy Corp	B. E. Baker "B" #1-T	686	07-14-82	C:	103 Approved; not 102-4
82-39450	NM	Yates Petroleum Corp	Snakeweed "SD" St #1	687	07-14-82	C:	102-2 & 107-TF Approved
82-41068	PA	Envirogas Inc	H. Stetson #1	693	07-26-82	C:	107-TF Approved; not 103
82-41091	PA	Quartinmont Glass Co	David #2	693	07-26-82	C:	Well Name
82-41092	PA	Quertinmont Glass Co	David No. 1	693	07-26-82	C:	Well Name
82-41104	PA	Wainoco Oil & Gas Co	Wayne L Bancroft No 1	693	07-26-82	C:	107-TF Approved; not 107-DP
82-41809	LA	Transco Oil Corp	Bel No. 1	696	08-13-82	C:	102-4 & 103 Approved
82-42232	TX	Ray H Eubank	Black-Clark #1-C	698	08-14-82	C:	102-4 Approved, not 103
82-42309	TX	Mobil Prdg Tx & NM Inc	LaGloria Gas Unit 42	698	08-14-82	C:	108 Approved; not 108-SA
82-42310	TX	Mobil Prdg Tx & NM Inc	Church of Brethren #6	698	08-14-82	C:	108 Approved; not 108-SA
82-42420	TX	Mobil Prdg Tx & NM Inc	W. D. Johnson "L" #2	698	08-14-82	C:	Well Name
82-42643	NM	Yates Petroleum Corp	Skink "SK" St #3	699	08-04-82	C:	102-2 & 107-TF Approved
82-42689	OK	R. J. Walker Oil Co Inc	Hart #1	699	08-04-82	C:	102-4 & 103 Approved
82-43147	LA	Primos Production Co	Petro Lewis Union Pwr. #34	701	08-04-82	C:	Well Name
82-43441	TX	Maralo Inc	University "6" #7	702	08-13-82	C:	Well Name
82-43547	OK	Chase Exploration Corp	Kahle #1-10	703	08-13-82	C:	108 Denied
82-43597MMS(CO)		Coseka Resources(USA)Ltd	Federal #1-35-4-104	703	08-13-82	C:	102-2 & 107-TF Approved
82-43636	PA	Envirogas Inc	J. Hall #1	703	08-13-82	C:	103 & 107-TF Approved
82-43942	OK	R W Moncrief Inc	Brownen #1-15	705	08-17-82	C:	Well Name
82-43959	OK	Dean Clark	Avers-Manor #1-17	705	08-17-82	C:	Well Name
82-44192	TX	Henderson Clay Prods Inc	Glen Williams Est GU #1	706	08-24-82	C:	102-3 & 107-TF Approved; not 107-DP
82-44522MMS(NM)		Wallen Production Co	Wallen 19 Federal #1 NM	707	08-17-82	C:	103 Approved; not 102-4
82-44581MMS(CO)		Federal Resources Dev Co	Federal N-21-3-101-S	707	08-24-82	C:	Well Name

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C	Correction to prior Fed. Register notice
82-45310	OK	Phillips Petroleum Co	Black A "1	711	08-26-82	C:	108-ER Approved
82-45361	PA	Northwest Natural Gas	Austin F Conley #2	711	08-26-82	C:	Well Name
82-45529	TX	Hunt Petroleum Corp	Ledbetter #1	712	08-26-82	C:	107-DP Approved; not 107-TF
82-45559	TX	Sierra Production Co	Josephine Chesnut #3	712	08-26-82	C:	Well Name
82-45701	TX	Judy Oil Company	Lloyd A B #3	712	08-26-82	C:	Well Name
82-45729	PA	Envirogas Inc	H Hamrick #2	713	08-26-82	C:	107-TF Approved, not 107-DP
82-46118	PA	Wm C Wood	J E Shaffer Well	713	08-26-82	C:	107-PE Approved; not 107-TF
82-46616	PA	American Petroel Inc	Campbell #1	716	09-01-82	C:	107-DV Approved; not 107
82-47136	PA	National Fuel Supply	A E Bren Et Con #786	718	09-01-82	C	Well Name
82-47358	WV	Hydrocarbon Ener Inc	R Lyons #1(HS-2)	719	09-01-82	C:	Well Name
82-47496	TX	Sage Energy Company	Birch Creek D #2	720	09-08-82	C:	Well Name
82-47497	TX	Sage Energy Company	Birch Creek H #1	720	09-08-82	C:	Well Name
82-47498	TX	Sage Energy Company	Birch Creek E No 1	720	09-08-82	C	Well Name
82-47521	TX	Carter Energy Corp	Etta Dobbins #3	720	09-08-82	C:	Well Name
82-47565	TX	HNG Oil Company	Vanderstucken "49" #5	720	09-08-82	C:	103 and 107-TF Approved
82-47824	KS	Kansas Petroleum Inc	Meis #1	721	09-08-82	C:	Well Name
82-47843	KS	Osborn Heirs Company	Walkenshaw #1	721	09-08-82	C:	Well Name
82-47844	KS	Osborn Heirs Company	Rohlman #1	721	09-08-82	C:	Well Name
82-48248	TX	R F Madera	Mackiser No 3	723	09-08-82	C:	Well Name

OTHER PURCHASERS VOLUME NO :742

8253605 HIGH PLAINS NATURAL GAS CO
8253671 E I DUPONT DE NEMOURS & CO INC
8253715 COLTEXO CORP
8253716 COLTEXO CORP
8253732 COLTEXO CORP
8253774 COLTEXO CORP
8253775 COLTEXO CORP

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 295.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

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–CB: 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. 82–27014 Filed 9–29–82; 8:45 am]
BILLING CODE 6717–01–M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-A E C OIL & GAS INC				RECEIVED:	09/09/82	JA: TX			
8253893	F-7B-055118	4242933250		102-2		J N CRUDGINGTON #5 RRC LS #17970	REID-MCLENNAN (MISS)	15.0	PETROLEUM CORP OF
-AARDOLIE OIL CO				RECEIVED:	09/09/82	JA: TX			
8253935	F-09-055416	4223700000		103		AAMY #1	DEWEBER (CONGLOMERATE	60.0	TEXAS UTILITIES F
8253936	F-09-055418	4223700000		103		CORDELL-KELLY #1	DEWEBER (CONGLOMERATE	30.0	TEXAS UTILITIES F
-ALMAC OIL CO				RECEIVED:	09/09/82	JA: TX			
8254103	F-10-055922	4217900000		103		BIG BULL #1 (ID# 05120)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
8254104	F-10-055923	4217900000		103		BIG BULL #2 (ID#05120)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
-AMERADA HESS CORPORATION				RECEIVED:	09/09/82	JA: TX			
8254146	F-7C-056055	4238300000		108		G L ALDWELL #4502	SPRABERRY TREND	3.7	EL PASO NATURAL G
8254145	F-7C-056054	4238300000		108		G L ALDWELL #4603	SPRABERRY TREND	4.5	EL PASO NATURAL G
-AMMEX PETROLEUM INC				RECEIVED:	09/09/82	JA: TX			
8253809	F-03-054371	4214931336		102-2	103	LUTHERHILL UNIT #1	GIDDINGS (EDWARDS GAS	576.0	CLAJON GAS CO
-AMOCO PRODUCTION CO				RECEIVED:	09/09/82	JA: TX			
8253927	F-06-055352	4220330907		102-4	107-TF	C A WYATT GAS UNIT #1	BLOCKER (COTTON VALLE	200.0	UNITED GAS PIPELI
8253928	F-06-055353	4220330923		102-4	107-TF	THOMPSON GAS UNIT "B" #1	BLOCKER (COTTON VALLE	250.0	UNITED GAS PIPELI
-APC OPERATING PARTNERSHIP				RECEIVED:	09/09/82	JA: TX			
8253997	F-09-055700	4207732637		103		SARAH MAXEY WELL #6 RRC #21514	BUCK M (BRYSON)	23.0	FAGADAU ENERGY CO
-ARCO OIL AND GAS COMPANY				RECEIVED:	09/09/82	JA: TX			
8253921	F-8A-055277	4216532364		103		ASHENHURST "D" #2	EAST SEMINOLE (SAN AN	5.8	PHILLIPS PETROLEU
8253848	F-10-054760	4217900000		108		H M DAVIS #4	PANHANDLE GRAY COUNTY	14.0	PHILLIPS PETROLEU
8253819	F-08-054506	4200332634		103		UNIVERSITY 11 SEC 23 #2	GOLDSMITH N (SAN ANDR	19.0	PHILLIPS PETROLEU
*8253918	F-8A-055273	4250131986		103		WILLARD UNIT #13-C	WASSON	3.6	SHELL OIL CO COLT
*8253915	F-8A-055269	4250131990		103		WILLARD UNIT #15-C	WASSON	9.8	SHELL OIL COMPANY
*8253916	F-8A-055271	4250132016		103		WILLARD UNIT #25-D	WASSON	10.0	SHELL OIL CO
*8253914	F-8A-055268	4250131989		103		WILLARD UNIT #27-C	WASSON	2.0	SHELL OIL CO
*8253920	F-8A-055275	4250132008		103		WILLARD UNIT #44-C	WASSON	35.0	SHELL OIL CO
*8253919	F-8A-055274	4250132014		103		WILLARD UNIT #59-C	WASSON	64.0	SHELL OIL CO
*8253917	F-8A-055272	4250132084		103		WILLARD UNIT #79-C	WASSON	21.0	SHELL OIL CO
8253849	F-10-054761	4217900000		108		WORLEY-RENOLDS #10	PANHANDLE GRAY COUNTY	3.7	PHILLIPS PETROLEU
-ARKLA EXPLORATION COMPANY				RECEIVED:	09/09/82	JA: TX			
8253952	F-06-055561	4218330511		103		THOMAS #1	WILLOW SPRINGS (TRAVI	300.0	ARKANSAS LOUISIAN
-ARROW PETROLEUM CO				RECEIVED:	09/09/82	JA: TX			
8254010	F-01-055744	4216331964		103		COVEY CHAPEL (07331) #1	PEARSALL (AUSTIN CHAL	25.0	TGP INC
8254011	F-01-055745	4216332172		103		J B BROOKS #1	PEARSALL (AUSTIN CHAL	10.0	TGP INC
-B & B FARM INDUSTRIES INC				RECEIVED:	09/09/82	JA: TX			
8253828	F-10-054540	4248331006		102-4		BAILEY "E" #1	THORNDIKE (HUNTON)	600.0	WESTAR TRANSMISSI
8254182	F-10-056180	4248331015		102-4		KELTON #2 (05068)	MILLS RANCH (GRANITE	600.0	MISSISSIPPI RIVER
-B & L OPERATING CO				RECEIVED:	09/09/82	JA: TX			
8254171	F-7B-056105	4213333938		102-4		MIDKIFF #1 (18556)	MIDKIFF (ADAMS BRANCH	7.0	ODESSA NATURAL CO
8254172	F-7B-056106	4213333999		102-4		MIDKIFF #3 (18556)	MIDKIFF (ADAMS BRANCH	11.0	ODESSA NATURAL CO

JD NO	JA DKT	API NO
8254170	F-7B-056104	4213334001
8254169	F-7B-056103	4213334002
8254168	F-7B-056102	4213333997
-BECKER & G/D INTERNATIONAL INC		
8254001	F-04-055706	4227331583
-BETTIS BOYLE & STOVALL		
8253793	F-7B-054185	4225332137
-BONRAY ENERGY CORP		
8253827	F-08-054537	4222732643
8253826	F-08-054536	4222732662
8253854	F-7C-054809	4238332003
-BOW VALLEY PETROLEUM INC		
8253844	F-03-054706	4231330316
-BRECKENRIDGE SALVAGE & SUPPLY		
8253907	F-7B-055227	4242900000
-BROCK PETROLEUM CORP		
8253955	F-01-055569	4217731293
-BTA OIL PRODUCERS		
8254004	F-8A-055729	4211531645
-BURNETT OIL CO INC		
8254068	F-03-055872	4233930487
-BURNS PETROLEUM		
8253900	F-09-055185	4223700000
8253901	F-09-055188	4207732080
-C F LAWRENCE & ASSOC INC*		
8253903	F-7C-055205	4210500000
8253882	F-7C-055026	4210500000
8253883	F-7C-055027	4210500000
8253884	F-7C-055028	4210500000
8253885	F-7C-055029	4210500000
8253886	F-7C-055030	4210500000
-C R SPROUL		
8254184	F-7C-056189	4241331232
-CALIX CORP		
8253949	F-01-055541	4217700000
8253948	F-01-055539	4217700000
8253975	F-01-055614	4217731194
-CHAMPLIN EXPLORATION INC		
8254165	F-03-056094	4214931281
8254020	F-03-055778	4228731079
8254019	F-03-055777	4214930339
8254164	F-03-056093	4228730923
8254021	F-03-055779	4214930386
-CIRCLE SEVEN PRODUCTION CO		
8253881	F-09-055024	4249732372
-CITIES SERVICE COMPANY		
8254007	F-03-055736	4214930656
8253858	F-08-054836	4238931247
8254150	F-08-056060	4238931247
8253972	F-03-055603	4214930534
8254152	F-8A-056062	4216532298
8254148	F-08-056058	4213533946
8254149	F-08-056059	4213533909

D	SEC(1)	SEC(2)	WELL NAME
	102-4		MIDKIFF #5 (18556)
	102-4		MIDKIFF #6 (18556)
	102-4		MIDKIFF #9 (18556)
	RECEIVED:	09/09/82	JA: TX
	103		INEZ W KOWALSKI UNIT #2 - 09949
	RECEIVED:	09/09/82	JA: TX
	103		EASON #1 OIL LSE #18249
	RECEIVED:	09/09/82	JA: TX
	103		READ 28-1
	103		SHIVE 29-1
	103		TEXAS UNIVERSITY - ICC
	RECEIVED:	09/09/82	JA: TX
	103		BLANKENSHIP #1
	RECEIVED:	09/09/82	JA: TX
	108		A L VIERTEL #2 36532
	RECEIVED:	09/09/82	JA: TX
	102-2		PLOEGER-GONZALES UNIT #3
	RECEIVED:	09/09/82	JA: TX
	103		WINFORD #3
	RECEIVED:	09/09/82	JA: TX
	102-4		HENRY LAWRENCE #1
	RECEIVED:	09/09/82	JA: TX
	102-4		BURNS #1
	103		CHILDS "A" #2
	RECEIVED:	09/09/82	JA: TX
	102-4		SHANNON "D" #1
	108		TODD "B" #1 75501
	108		TODD "F" #1 77447
	108		TODD "H" #1 78120
	108		TODD "I" #1 78348
	108		TODD "J" #1 80057
	RECEIVED:	09/09/82	JA: TX
	103		JS WR & RH WHITTEN #1
	RECEIVED:	09/09/82	JA: TX
	102-4		DUBOSE #1 (07773)
	102-4		DUBOSE #2 (07773)
	102-4		SLOAN #1 ID 08135
	RECEIVED:	09/09/82	JA: TX
	102-2		#1 MILLIE (RRC ID #15354)
	102-2		GERDES C #2 (RRC ID#12519)
	102-2		HULDA EPHRAIM #2 (RRC ID#12238)
	102-2		MARY BLACKBURN HARRELL #4 (097567)
	102-2		MITSCHKE #1 (RRC ID#12647)
	RECEIVED:	09/09/82	JA: TX
	103		CARUTHERS/COFFEE #1
	RECEIVED:	09/09/82	JA: TX
	102-2		CHERRY "A" #1 (13365)
	103		LAYDEN-A #1
	103		LAYDEN-A #2
	102-2		RODGERS "A" #1 OIL UNIT (12985)
	103		W SEMINOLE SAN ANDRES UNIT #1309
	103		WEST GOLDSMITH UNIT #5120
	103		WEST GOLDSMITH UNIT #5121

FIELD NAME	PROD	PURCHASER
MIDKIFF (ADAMS BRANCH	11.0	ODESSA NATURAL CO
MIDKIFF (ADAMS BRANCH	9.0	ODESSA NATURAL CO
MIDKIFF (ADAMS BRANCH	11.0	ODESSA NATURAL CO
KINGSVILLE (OAKVILLE)	15.0	TEXAS EASTERN TRA
RAVEN CREEK (CANYON S	37.0	CONOCO INC
COAHOMA N (MISS)	49.3	PHILLIPS PETROLEU
COAHOMA N (MISS)	60.2	PHILLIPS PETROLEU
BIG LAKE N (FUSSELMAN	438.0	INTRATEX GAS CO
NORTH ZULCH	40.0	LONE STAR GAS CO
MCCREA (STRAWN LO)	12.5	PETROLEUM CORP OF
PEACH CREEK (BUDA)	50.0	VALERO TRANSMISSI
WELCH SE (SPRABERRY)	4.4	PHILLIPS PETROLEU
MISS ANNE (WILCOX)	46.0	TEJAS GAS CORP
CRUM (MARBLE FALLS)	20.0	SOUTHWESTERN GAS
CLAY COUNTY REGULAR	25.0	FAGADAU ENERGY CO
BRALAW (QUEEN UPPER)	0.0	EL PASO NATURAL G
DONHAM (SAN ANDRES)	11.7	APACHE GAS CORP
HOWARD DRAW (GRAYBURG	6.5	APACHE GAS CORP
TODLAW (QUEEN)	14.7	APACHE GAS CORP
HOWARD DRAW (GRAYBURG	3.3	APACHE GAS CORP
HOWARD DRAW (GRAYBURG	3.9	APACHE GAS CORP
ELDORADO NORTH (CANYO	79.2	
PEACH CREEK (AUSTIN C	30.0	VALERO TRANSMISSI
PEACH CREEK (AUSTIN C	48.0	VALERO TRANSMISSI
PEACH CREEK (AUSTIN C	45.0	VALERO TRANSMISSI
GIDDINGS (AUSTIN CHAL	85.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	300.0	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	2.4	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	150.0	PHILLIPS PETROLEU
GIDDINGS (BUDA)	150.0	RESERVE GAS SYSTE
BOONESVILLE (BEND CON	0.0	LONE STAR GAS CO
GIDDINGS (AUSTIN CHAL	45.0	PHILLIPS PETROLEU
COLLIE (DELAWARE)	20.0	INTRATEX GAS CO
COLLIE (DELAWARE)	43.0	INTRATEX GAS CO
GIDDINGS (AUSTIN CHAL	85.0	PHILLIPS PETROLEU
SEMINOLE WEST	21.0	CITIES SERVICE CO
GOLDSMITH W (CLEARFOR	27.0	SHELL OIL CO
GOLDSMITH W (CLEARFOR	29.0	SHELL OIL CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8254151	F-8A-056061	4216531982		103		WEST SEMINOLE SAN ANDRES UNIT #713	SEMINOLE WEST	13.0	CITIES SERVICE CO
-COCKRELL CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253937	F-02-055439	4212331188		103		CHARLES E GARRETT #1	GARRETT	100.0	VALERO TRANSMISSI
-COLA PETROLEUM INC				RECEIVED:	09/09/82	JA: TX			
8254180	F-7C-056144	4238331715		103		ELLA "114" #1	CALVIN (DEAN)	22.0	UNION TEXAS PETRO
-COLORADO INTERSTATE GAS CO				RECEIVED:	09/09/82	JA: TX			
8254000	F-10-055705	4237530159		108		BIVINS 64R	PANHANDLE WEST (RED C	0.0	COLORADO INTERSTA
-COLUMBIA GAS DEVELOPMENT CORP				RECEIVED:	09/09/82	JA: TX			
8254042	F-03-055808	4205132251		102-2		RAYMOND ZGABAY #4	GIDDINGS (AUSTIN CHAL	35.0	FERGUSON CROSSING
-CONOCO INC				RECEIVED:	09/09/82	JA: TX			
8254036	F-01-055800	4232331659		103		N J CHITTIM #A-25	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254024	F-01-055787	4232331667		103		N J CHITTIM #B-6	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254025	F-01-055788	4232331658		103		N J CHITTIM #C-11	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254023	F-01-055786	4232331657		103		N J CHITTIM #C-12	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254035	F-01-055799	4232331656		103		N J CHITTIM #H-2	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254033	F-01-055797	4232331655		103		N J CHITTIM #H-3	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254034	F-01-055798	4232331654		103		N J CHITTIM #H-4	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254028	F-01-055792	4232331671		103		N J CHITTIM #3908	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254032	F-01-055796	4232331672		103		N J CHITTIM #3909	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254030	F-01-055794	4232331386		103		N J CHITTIM #443	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254031	F-01-055795	4232331387		103		N J CHITTIM #444	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254027	F-01-055790	4232331388		103		N J CHITTIM #445	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254026	F-01-055789	4232331670		103		N J CHITTIM #7215	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254029	F-01-055793	4232331668		103		N J CHITTIM #7216	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254037	F-01-055801	4232331666		103		N J CHITTIM #9916	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254120	F-10-055986	4206500000		108		POLING #1	WEST PANHANDLE	12.0	CITIES SERVICE GA
8253802	F-08-054273	4230130344		103	107-DP	W D JOHNSON "2" #1	CENTRAL PINAL DOME (W	146.4	TRANSCONTINENTAL
-COOK JOHN R				RECEIVED:	09/09/82	JA: TX			
8253906	F-7B-055226	4242900000		108		M E CARPER #1 40535	TRAMMELL (CADDO)	12.8	PETROLEUM CORP OF
8253905	F-7B-055225	4242900000		108		R Q CURRY #1 040540	TRAMMELL (CADDO)	5.1	PETROLEUM CORP OF
-COTTON PETROLEUM CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253894	F-08-055139	4231732256		103		STEWART-ALLAR #1	SPRAYBERRY (TA) DEAN	0.0	PHILLIPS PETROLEU
-DALLAS SUNBELT OIL & GAS INC				RECEIVED:	09/09/82	JA: TX			
8254077	F-7B-055884	4213333503		103		CARVER "B" #3 (18178)	EASTLAND COUNTY REGUL	7.0	LONE STAR GAS CO
8254076	F-7B-055883	4213333502		103		CARVER "B" #4 (18178)	EASTLAND COUNTY REGUL	5.0	LONE STAR GAS CO
8254075	F-7B-055882	4213333508		102-4		KIRK #4 (17497)	RANGER NW (MARBLE FAL	22.0	LONE STAR GAS CO
8254074	F-7B-055881	4213333507		102-4		KIRK #5 (17497)	RANGER NW (MARBLE FAL	73.0	LONE STAR GAS CO
8254073	F-7B-055880	4213333506		102-4		KIRK #6 (17497)	RANGER NW (MARBLE FAL	48.0	LONE STAR GAS CO
-DAMSON OIL CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253805	F-02-054319	4223931601		102-4		CLARENCE BULLER #1	BULLER (10000 SAND)	400.0	VALERO TRANSMISSI
8253815	F-06-054447	4240131380		103	107-TF	KANGERGA GAS UNIT 1 WELL #2	OAK HILL/COTTON VALLE	300.0	DELHI GAS PIPELIN
8253813	F-06-054432	4240100000		103	107-TF	LINVILLE BENNETT UNIT 1 WELL #4	OAK HILL (COTTON VALL	300.0	DELHI GAS PIPELIN
-DAN LANKFORD				RECEIVED:	09/09/82	JA: TX			
8254018	F-09-055774	4250332948		103		CORA MCMURTRY #19107	BUNGER BRIDGE (CONGL)	45.0	LONE STAR GAS CO
-DELTA DRILLING CO				RECEIVED:	09/09/82	JA: TX			
8253812	F-7C-054426	4210500000		103	107-TF	ROY HENDERSON #2	OZONA CANYON	0.0	INTER NORTH INC
-DELTA OIL & GAS CO				RECEIVED:	09/09/82	JA: TX			
8253950	F-7B-055559	4242933178		103		REMINGTON HEIRS #1	CADDO (DUFFER)	0.0	LONE STAR GAS CO
-DEPCO INC				RECEIVED:	09/09/82	JA: TX			
8254179	F-8A-056137	4216532360		103		NORA F COLTHARP #4	ROBERTSON	4.0	PHILLIPS PETROLEU
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253995	F-08-055697	4223300000		108		E B JOHNSON "A" #1	WEST PANHANDLE	9.0	INTERNORTH INC
-DISCOVERY OPERATING INC				RECEIVED:	09/09/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8254161	F-08-056085	4243931048		103		WIMBERLY #1	SPRABERRY (TREND AREA	27.0	PHILLIPS PETROLEU
-DORCHESTER EXPLORATION INC				RECEIVED:		09/09/82 JA: TX			
*8253929	F-08-055357	4243131139		103		F CONGER 19 #5	WAM (FUSSELMAN)	156.0	VALERO TRANSMISSI
*8253939	F-08-055501	4243131081		103		WESTBROOK 29 #3	CONGER (PENN)	431.0	VALERO TRANSMISSI
-DUVAL PRODUCTION INC				RECEIVED:		09/09/82 JA: TX			
8254147	F-04-056056	4213100000		102-4		SULO-PETERS #6	PETERS N	169.0	VALERO TRANSMISSI
-ECHO PRODUCTION INC				RECEIVED:		09/09/82 JA: TX			
8254185	F-09-056260	4249732071		103		J H CARR 100305	BOONESVILLE (BEND CON	72.0	LONE STAR GAS CO
-EL PASO NATURAL GAS COMPANY				RECEIVED:		09/09/82 JA: TX			
8254178	F-10-056124	4217934747		108		HUDGINS #3-C	PANHANDLE EAST	16.8	EL PASO NATURAL G
8254174	F-10-056120	4208726188		108		MILEUR #1	PANHANDLE EAST	17.7	EL PASO NATURAL G
8254176	F-10-056122	4208726213		108		NICHOLSON D #1	PANHANDLE EAST	19.5	EL PASO NATURAL G
8254175	F-7C-056121	4241352932		108		SHEEN A #1 FIELD SALE	FORT MCKAVITT (CANYON	21.0	EL PASO NATURAL G
8254177	F-10-056123	4208726320		108		WISCHKAEMPER F #1	PANHANDLE EAST	18.8	EL PASO NATURAL G
-EXXCEL PRODUCTION CO				RECEIVED:		09/09/82 JA: TX			
8254167	F-10-056101	4217931169		103		FELIX #1 (ID #05118)	PANHANDLE GRAY	100.0	CABOT PIPELINE CO
-EXXON CORPORATION				RECEIVED:		09/09/82 JA: TX			
8253814	F-02-054434	4229700000		103		CHARLES L MCCASLIN #20	RAMIRENA SW (YEGUA 3	198.0	NATURAL GAS PIPEL
8253879	F-08-055013	4200333086		103		ELIZABETH ARMSTRONG #6	MEANS SOUTH (WOLFCAMP	3.0	PHILLIPS PETROLEU
8253808	F-08-054356	4200333178		103		FULLERTON CLEARFORK UNIT #2709	FULLERTON	15.0	PHILLIPS PETROLEU
8253924	F-08-055324	4200333188		103		FULLERTON CLEARFORK UNIT #4623	FULLERTON	15.0	PHILLIPS PETROLEU
8253925	F-08-055325	4200333187		103		FULLERTON CLEARFORK UNIT 4617	FULLERTON	15.0	PHILLIPS PETROLEU
8253923	F-08-055323	4200333191		103		FULLERTON CLEARFORK UNIT 4719	FULLERTON	15.0	PHILLIPS PETROLEU
8253856	F-03-054813	4207131248		103		GALVESTON BAY STATE "A" #185	RED FISH REEF (FB A-1	400.0	HOUSTON PIPELINE
8253873	F-08-055001	4210332897		103		J C TUBB A/C 1 #263L	SAND HILLS	10.0	EL PASO NATURAL G
8253874	F-08-055002	4210332897		103		J C TUBB A/C 1 #263U	SAND HILLS (MCKNIGHT)	167.0	EL PASO NATURAL G
8253836	F-08-054653	4210332827		103		J C TUBB A/C 2 #264L	SAND HILLS (TUBB)	5.0	EL PASO NATURAL G
8253875	F-08-055003	4210332828		103		J C TUBB A/C 2 #267L	SAND HILLS (TUBB)	20.0	EL PASO NATURAL G
8253876	F-08-055004	4210332828		103		J C TUBB A/C 2 #267U	SAND HILLS (MCKNIGHT)	16.0	EL PASO NATURAL G
8253897	F-08-055177	4210300000		108		J E PARKER A/C 4 #85	THREE BAR (YATES)	12.0	INTERNORTH INC
8253898	F-08-055178	4210300000		108		J E PARKER A/C 6 #28	THREE BAR (YATES)	12.0	INTERNORTH INC
8253820	F-06-054507	4236531252		103	107-TF	J S GHOLSTON #3	CARTHAGE (COTTON VALL	550.0	TEJAS GAS CORP
8254041	F-04-055807	4226100000		108		JOHN G KENEDY JR B 34-D (011894)	MAY SOUTH/B BASAL 4/	3.7	NATURAL GAS PIPEL
*8254108	F-04-055950	4235531797		103		K R EAST LAURELES G-46-D (099829)	LAGUNA LARGA (B-1 IV)	650.0	ARMCO STEEL CORP
8253877	F-04-055010	4204731060		102-4		MCGILL BROS 481 (ID PENDING)	KELSEY SE (29-D N)	33.0	TRUNKLINE GAS CO
8253926	F-08-055326	4200333103		103		MEANS/SAN ANDRES/UNIT #3256	MEANS	15.0	PHILLIPS PETROLEU
8254039	F-04-055805	4224700000		108		MIGUEL JUAREZ 7F (89851)	KELSEY SOUTH /19-H N/	19.7	TRUNKLINE GAS CO
8253855	F-04-054810	4224731127		102-4		MRS A M K BASS 44 (ID PENDING)	KELSEY DEEP (ZONE 20-	350.0	TRUNKLINE GAS CO
8254038	F-04-055802	4226100000		108		MRS ALICE K EAST B 1 (82403)	SAN ROMAN 8-D E	14.0	TENNESSEE GAS PIP
*8254110	F-04-055952	4226130460		102-4		MRS S K EAST 99-D (099842)	RITA NE (M-72)	365.0	ARMCO STEEL CORP
*8254109	F-04-055951	4204730859		102-4		RJK JR TR ZACH PAST ST 9-F (09643)	VIBORAS (6-56 VIII)	66.0	ARMCO STEEL CORP
8253878	F-04-055011	4213135141		102-4		S LUNDELL GAS UNIT #1 WELL #2	LUNDELL S (1850)	73.0	TENNESSEE GAS PIP
*8254111	F-04-055965	4204730965		102-4		SANTA FE RANCH "B" 73 (099567)	LOPEZ RANCH (VICKSBUR	116.8	ARMCO STEEL CORP
*8254112	F-04-055967	4204730988		102-4		SANTA FE RANCH "B" 74 (099845)	LOPEZ RANCH (VICKSBUR	131.4	ARMCO STEEL CORP
8254121	F-04-055989	4226130683		102-4		SARITA FIELD OIL&GAS 171 (100033)	SARITA (1-G,E)	193.0	NATURAL GAS PIPEL
*8254002	F-03-055707	4203900000		103		W A MOLLER "B" A/C 3 #11R	DANBURY DOME (5655 SA	24.0	ARMCO STEEL CORP
-FAIRCHILD PETROLEUM CORP				RECEIVED:		09/09/82 JA: TX			
8253850	F-7B-054779	4215100000		103		J P TURNER #1	SYLVESTOR (GOEN)	18.0	CONOCO INC
-FAMCOR OIL INC				RECEIVED:		09/09/82 JA: TX			
8253947	F-03-055534	4231330360		103		V WOOD #1 RRC #15422	MADISONVILLE N E (DEX	120.0	LONE STAR GAS CO
-FORTUNE PRODUCTION CO				RECEIVED:		09/09/82 JA: TX			
8253889	F-7C-055099	4245100000		102-4	103	WOOD #2	WOOD (STRAWN LOWER)	304.4	PRODUCER'S GAS CO
-GETTY OIL COMPANY				RECEIVED:		09/09/82 JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8254107	F-02-055947	4228500000		108		BENBOW "A" #1
8254173	F-06-056113	4236500000		108		WERNER "K" #1
				RECEIVED:	09/09/82	JA: TX
-GRO-TEX						
8253823	F-7B-05420	4204932975		102-4		T F BRANDT #1 (099909)
8253824	F-7B-054521	4204933026		102-4		T F BRANDT #2 (099910)
				RECEIVED:	09/09/82	JA: TX
-GULF OIL CORPORATION						
8254086	F-7B-055904	4222100000		108		BRATTEN RANCH #3
8254100	F-7B-055918	4222100000		108		BRATTEN RANCH #5
8254088	F-7B-055906	4222100000		108		BRATTEN RANCH #7
8254142	F-08-056049	4213521454		108		C A GOLDSMITH #1069
8254143	F-08-056050	4213530314		108		C A GOLDSMITH #1256
8254140	F-08-056047	4213530343		108		C A GOLDSMITH #1283
8254139	F-08-056046	4213501049		108		C A GOLDSMITH #671
8254144	F-08-056051	4213501069		108		C A GOLDSMITH #691
8254138	F-08-056045	4213530110		108		C A GOLDSMITH ET AL #1187
8254141	F-08-056048	4213530391		108		C A GOLDSMITH ET AL #5600
8254101	F-7B-055919	4222100000		108		C L CAMPBELL #2
8253930	F-03-055399	4224531279		103		C W BURRELL #48
8254090	F-7B-055908	4222100000		108		D NELSON #1
8254089	F-7B-055907	4222100000		108		F WEST #6
8254136	F-08-056043	4247532600		103		HUTCHINGS STOCK ASSN #1080
8254009	F-08-055742	4247532580		103		HUTCHINGS STOCK ASSN #1085
8253934	F-08-055411	4247532612		103		HUTCHINGS STOCK ASSN #1160
8253871	F-08-054990	4247502471		108		HUTCHINGS STOCK ASSN #468
8253870	F-08-054988	4247530065		108		HUTCHINGS STOCK ASSN #804
8253869	F-08-054986	4247530411		108		HUTCHINGS STOCK ASSN #944
8254087	F-7B-055905	4222100000		108		J B MARTIN #1
8254098	F-7B-055916	4222100000		108		K M FAULKNER #1
8254137	F-08-056044	4249531489		103		KEYSTONE CATTLE CO #358
8253933	F-08-055410	4249531413		103		KEYSTONE HOLT UNIT #9341
8254091	F-7B-055909	4222100000		108		OLLIE GARDNER #1
8254097	F-7B-055915	4222100000		108		OTIS ROLLINS #1
8253842	F-10-054683	4229531006		103		PEARL WHEAT #2-765
8254096	F-7B-055914	4222100000		108		R W ANDERSON GAS UNIT #1
8254102	F-7B-055920	4222100000		108		T H NIX #2
*8254095	F-08-055913	4210332802		103		W N WADDELL #1219
*8254085	F-08-055903	4210332854		103		W N WADDELL #1230
*8254094	F-08-055912	4210332861		103		W N WADDELL #1232
				RECEIVED:	09/09/82	JA: TX
-GUPTON GAS CO						
8254166	F-7B-056097	4236700000		108		WALKER CAMPBELL #1 (71024)
				RECEIVED:	09/09/82	JA: TX
-H-M OIL CO						
8254126	F-03-056019	4248131803		102-4	103	ELMER P REDWINE ESTATE 098104
				RECEIVED:	09/09/82	JA: TX
-HARRISON INTERESTS LTD						
8253857	F-7C-054834	4210534019		103	107-TF	J S PIERCE "A" #3
				RECEIVED:	09/09/82	JA: TX
-HILLTOP DRILLING & PROD CO INC						
8253913	F-7B-055254	4236332734		103		GUY MONTGOMERY (1)
				RECEIVED:	09/09/82	JA: TX
-HLH PETROLEUM CORP						
8253895	F-7B-055140	4225332230		103		MCCOLLUM #1-18
				RECEIVED:	09/09/82	JA: TX
-HNG OIL COMPANY						
8253908	F-02-055228	4217500000		103		ETTA TERRELL A #13 06255
				RECEIVED:	09/09/82	JA: TX
-HOMABY BAY PETROLEUM CORP						
8253830	F-04-054568	4226130535		103		STATE OF TEXAS TRACT 284-3
				RECEIVED:	09/09/82	JA: TX
-HUNT OIL COMPANY						

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FIELD NAME	PROD	PURCHASER
BENBOW (WILCOX 8100)	3.0	TEJAS GAS CORP
CARTHAGE (PALUXY)	18.0	TEXAS GAS TRANSMI
BRANDT (FRY)	108.0	ODESSA NATURAL CO
BRANDT (FRY)	375.0	ODESSA NATURAL CO
BRATTEN (STRAWN)	12.4	LONE STAR GAS CO
BRATTEN (STRAWN)	3.0	LONE STAR GAS CO
BRATTEN (STRAWN)	10.0	LONE STAR GAS CO
GOLDSMITH (5600')	2.0	PHILLIPS PETROLEU
GOLDSMITH (5600')	2.0	PHILLIPS PETROLEU
GOLDSMITH (5600')	1.0	PHILLIPS PETROLEU
GOLDSMITH (5600')	2.0	PHILLIPS PETROLEU
GOLDSMITH (5600')	3.0	PHILLIPS PETROLEU
GOLDSMITH (5600')	2.0	PHILLIPS PETROLEU
GOLDSMITH (5600')	1.0	PHILLIPS PETROLEU
MCINTOSH (STRAWN)	10.0	LONE STAR GAS CO
FANNETT	81.0	TEXAS EASTERN TRA
MCINTOSH (STRAWN)	5.0	LONE STAR GAS CO
MCINTOSH (STRAWN)	10.0	LONE STAR GAS CO
WARD-ESTES NORTH	31.0	CABOT CORP
WARD-ESTES NORTH	55.0	CABOT CORP
WAGON WHEEL (PENN)	218.0	CABOT CORP
WARD-ESTES NORTH	1.0	CABOT CORP
WARD-ESTES NORTH	1.0	CABOT CORP
WARD-ESTES NORTH	1.0	CABOT CORP
BRAZOS EAST (STRAWN)	10.0	LONE STAR GAS CO
LIPAN (STRAWN)	11.7	LONE STAR GAS CO
KEYSTONE (COLBY)	98.0	CABOT CORP
KEYSTONE (HOLT)	109.0	CABOT CORP
MCINTOSH (STRAWN)	3.0	LONE STAR GAS CO
OTIS ROLLINS (MARBLE	7.0	LONE STAR GAS CO
PEERY CLEVELAND	34.0	TRANSWESTERN PIPE
LIPAN (STRAWN)	3.0	LONE STAR GAS CO
MCINTOSH (STRAWN)	6.0	LONE STAR GAS CO
SAND HILLS (JUDKINS)	38.7	
SAND HILLS (JUDKINS)	38.6	
SAND HILLS (JUDKINS)	25.5	
TINTOP (ATOKA) FIELD	20.0	SOUTHWESTERN GAS
ALLEN (5500)	0.0	TENNESSEE GAS PIP
OZONA (CANYON SAND)	450.0	INTRATEX GAS CO
PALO PINTO COUNTY CO	24.0	WEL GAS INC OF TE
NOODLE NW (CANYON SD	55.0	CONOCO INC
TERRELL POINT	0.0	TRUNKLINE GAS CO
POTRERO LOPENA (MARGI	350.0	TEJAS GAS CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8253810	F-04-054377	4270230166		102-4		STATE LEASE 74581 #1
8253983	F-7C-055631	4246131886		102-4		V T AMACKER 77 #3
-INVESTEK INC				RECEIVED:	09/09/82	JA: TX
8254008	F-09-055737	4207700000		102-4		TALLY A #3
-J M HUBER CORPORATION				RECEIVED:	09/09/82	JA: TX
8254129	F-10-056025	4206500000		108		BURNETT "R" #20
8254064	F-10-055853	4223331337		103		MAGNOLIA HERRING #25
-J-AM PROPERTIES INC				RECEIVED:	09/09/82	JA: TX
8253985	F-10-055639	4217930728		108		WILSON (092587) #1
-JACKSON EXPLORATION INC				RECEIVED:	09/09/82	JA: TX
8253806	F-7C-054329	4244330268		102-4	103	INGHAM "A" #1
8253807	F-7C-054330	4244330268		102-4	103	INGHAM "A" #1
8253843	F-7C-054688	4210533685		102-4	103	P C PERNER #3
8253859	F-7C-054842	4244330272		102-4	103	RUTH WHITE "B" #1
-JAMES K ANDERSON INC				RECEIVED:	09/09/82	JA: TX
8254062	F-7C-055844	4239932355		102-4		DAVENPORT "E" #2
-JERRY E WYLIE OIL DRILLING COMPANY				RECEIVED:	09/09/82	JA: TX
8253977	F-7B-055624	4242933206		102-4		ECHOLS #2 (18528)
8253976	F-7B-055623	4242933226		102-4		ECHOLS #3 (18528)
-K L M OIL & GAS INC				RECEIVED:	09/09/82	JA: TX
8253846	F-7B-054738	4204933143		102-4		TABER RANCH #101 (100424)
-KEITH D GRAHAM				RECEIVED:	09/09/82	JA: TX
8254049	F-03-055815	4204130708		102-2		BEAL UNIT #1 #15398
-KEYSTONE OIL CO INC				RECEIVED:	09/09/82	JA: TX
8253800	F-7B-054249	4213333452		102-4		MOORE #1
-KIRKWOOD & CO				RECEIVED:	09/09/82	JA: TX
8253931	F-02-055404	4202531834		103		D W HANCOCK #4-A
-L & M OIL CO				RECEIVED:	09/09/82	JA: TX
8253954	F-09-055566	4249700000		108		MCINTYRE #1 (029163)
-LAYTON ENTERPRISES INC				RECEIVED:	09/09/82	JA: TX
8254153	F-8A-056069	4207931529		103		REED WRIGHT #A-15
-LEEPER OIL EXPLORATION & PRODUCTION				RECEIVED:	09/09/82	JA: TX
8253822	F-08-054519	4222732597		103		W R SATTERWHITE #1
-LOUISIANA CRUDE OIL & GAS CO INC				RECEIVED:	09/09/82	JA: TX
8253795	F-7B-054191	4213332375		108		HOWELL CURRY #2
-MARALO INC				RECEIVED:	09/09/82	JA: TX
8254163	F-05-056090	4239530261		102-4	103	ALCOA #1
-MCFARLANE OIL CO INC				RECEIVED:	09/09/82	JA: TX
8253887	F-02-055035	4246931828		103		PICKERING & BUHLER #28
-MCZ INC				RECEIVED:	09/09/82	JA: TX
8254067	F-03-055870	4204100000		102-2		M E WATSON OIL UNIT #1-U
-MEWBOURNE OIL COMPANY				RECEIVED:	09/09/82	JA: TX
8254017	F-10-055771	4235731243		103		MCGIBBON UNIT #1 RRC #05038
8253803	F-10-054276	4229531173		102-4	103	SCHULTZ "716" #3 RRC ID # N/A
-MIDWAY OIL CORP				RECEIVED:	09/09/82	JA: TX
8254105	F-03-055932	4205131566		102-4		BETANCOURT #1
-MITCHELL ENERGY CORPORATION				RECEIVED:	09/09/82	JA: TX
8253833	F-7C-054624	4245130901		102-4	103	MCWHORTER 218 #2 - L
8253863	F-09-054929	4249732082		103		WAGGONER (MAYNARD) #24
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	09/09/82	JA: TX
8253993	F-8A-055695	4207931555		103		NORTH CENTRAL LEVELLAND UNIT #354
-MONSANTO COMPANY				RECEIVED:	09/09/82	JA: TX
8253796	F-08-054201	4222700000		108		HUTTO "A" #1

FIELD NAME	PROD	PURCHASER
BLOCK 772 (FRIO MIDDL	2500.0	TENNGAS CO GAS GAT
AMACKER-TIPPETT SW (W	146.0	EL PASO NATURAL G
TALLY (CONGLOMERATE)	267.0	TEXAS UTILITIES F
WEST PANHANDLE	2.0	COLORADO INTERSTA
PANHANDLE	37.0	COLORADO INTERSTA
WEST PANHANDLE	4.0	EL PASO NATURAL G
MESA GRANDE (DEVONIAN	140.0	LINK SYSTEMS INC
INGHAM-WHITE (DEVONIA	175.0	LINK SYSTEMS INC
DUDLEY EAST (DEVONIAN	140.0	LINK SYSTEMS INC
MESA GRANDE (DEVONIAN	100.0	LINK SYSTEMS INC
MYRNA LYNN (FRY SAND)	72.0	UNION TEXAS PETRO
TULLOS (DUFFER 4060)	115.0	LONE STAR GAS CO
TULLOS (DUFFER 4060)	173.0	LONE STAR GAS CO
KAY (CADDO)	152.0	ODESSA NATURAL CO
GIDDINGS (AUSTIN CHAL	151.5	CLAJON GAS CO
EASTLAND W (RANGER)	212.0	ODESSA NATURAL CO
CLAREVILLE (HOCKLEY 4	20.3	ESPERANZA TRANSMI
BOONESVILLE (BEND CON	12.0	LONE STAR GAS CO
LEVELLAND	8.9	CITIES SERVICE CO
BIG SPRING FUSSELMAN	18.3	GETTY OIL CO
EASTLAND COUNTY REGUL	17.9	SOUTHWESTERN GAS
BREMOND S (TRAVIS PEA	40.3	TEXAS UTILITIES F
PLACEDO	0.0	TENNECO CHEMICALS
KURTEN (WOODBINE)	55.0	FERGUSON CROSSING
PERRYTON (MORROW BASA	4.0	PHILLIPS PETROLEU
SKUNK CREEK (HEPLER)	5.0	TRANSWESTERN PIPE
CALDWELL	8.0	CLAJON GAS CO
K W B (STRAWN)	62.0	ESPERANZA PIPELIN
BOONSVILLE (BEND CONG	99.9	NATURAL GAS PIPEL
LEVELLAND	4.7	AMOCO PRODUCTION
HUTTO SOUTH (WOLFCAMP	0.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253797	F-08-054202	4222700000		108		HUTTO "A" #2	HUTTO SOUTH (WOLFCAMP	0.0	PHILLIPS PETROLEU
8254022	F-08-055780	4200333213		103		UNIVERSITY"B" 14-19 #4	SHAFTER LAKE (SAN AND	7.0	
8254056	F-08-055831	4200333210		103		UNIVERSITY"B" 14-19 #6	SHAFTER LAKE (SAN AND	10.0	
				RECEIVED:	09/09/82	JA: TX			
-MORGAS									
8253987	F-10-055676	4248330927		103		EDNA #1 099270	PANHANDLE EAST	0.0	EL PASO NATURAL G
				RECEIVED:	09/09/82	JA: TX			
-NATIONAL PETROLEUM CORP									
8254118	F-08-055983	4237100000		103		EATON #14	PECOS VALLEY (HIGH GR	16.4	EL PASO NATURAL G
8254117	F-08-055982	4237100000		103		EATON #15	PECOS VALLEY (HIGH GR	20.1	EL PASO NATURAL G
				RECEIVED:	09/09/82	JA: TX			
-NIELSON ENTERPRISES INC									
8254162	F-06-056069	4220330504		108		MATTIE LEE KNOX #1	WHELAN (COTTON VALLEY	6.0	ARKANSAS-LOUISIAN
				RECEIVED:	09/09/82	JA: TX			
-NORTH RIDGE CORP									
8253853	F-7B-054800	4213333821		102-4	103	W W CRABB #1	RANGER NW (MARBLE FAL	3.0	PRISM ENTERPRISES
				RECEIVED:	09/09/82	JA: TX			
-NORTHERN NATURAL GAS PRODUCING CO									
8253837	F-10-054658	4217900000		108-SA		BRADFORD #1	PANHANDLE WEST	15.2	INTERNORTH INC
				RECEIVED:	09/09/82	JA: TX			
-O I L ENERGY INC									
8253986	F-7C-055659	4245130941		103		DOUGLAS #2	SSR (CANYON UPPER)	300.0	EL PASO HYDROCARB
				RECEIVED:	09/09/82	JA: TX			
-OMNI OPERATING CO									
8253825	F-04-054531	4227331660		103		KING RANCH TRUSTEE #A-2	KINGSVILLE MIO 2130'	0.0	TEXAS EASTERN TRA
				RECEIVED:	09/09/82	JA: TX			
-OTTCO OIL INC									
8254106	F-10-055946	4223331431		103		HERRING-NIVENS #11	PANHANDLE HUTCHINSON	150.4	PANHANDLE PRODUCI
8253973	F-10-055612	4223331124		103		JATEN 13 - 1	PANHANDLE HUTCHINSON	73.0	PHILLIPS PETROLEU
8254057	F-10-055834	4223331142		103		JATEN 13 - 2	PANHANDLE HUTCHINSON	182.5	PHILLIPS PETROLEU
				RECEIVED:	09/09/82	JA: TX			
-PAGE PETROLEUM INC									
8253801	F-03-054265	4208931283		102-2		LEHRER #3 - 15614	N W GARWOOD	45.0	HYDROCARBON GATHE
				RECEIVED:	09/09/82	JA: TX			
-PAUL R MAYO									
8253829	F-7B-054552	4241734394		102-4		L B DAVIS #2	WILDCAT	131.0	LONE STAR GAS CO
				RECEIVED:	09/09/82	JA: TX			
-PETROLEUM ACQUISITIONS CORP									
8254083	F-06-055898	4220300000		108		L D BROWN #1	GOOCH	10.0	EAST TEXAS INDUST
8254084	F-06-055899	4220300000		108		WILLIAM H LANE #2	GOOCH	10.0	EAST TEXAS INDUST
				RECEIVED:	09/09/82	JA: TX			
-PHILLIPS PETROLEUM COMPANY									
8254130	F-08-056035	4213502428		108		ABELL #3	ANDECTOR (ELLENBURGER	12.0	EL PASO NATURAL G
8253860	F-10-054882	4229500000		108		DUKE E #1	KIOWA CREEK	0.0	PANHANDLE EASTERN
8253892	F-08-055105	4213533876		103		EMBAR #54	GOLDSMITH N (SAN ANDR	92.0	EL PASO NATURAL G
8254132	F-08-056037	4213504354		108		GS ANDECTOR #L-04L	GOLDSMITH (CLEARFORK)	4.0	EL PASO NATURAL G
8254015	F-10-055762	4235700000		108		HERNDON CM #1		0.0	INTERNORTH INC
8253891	F-7C-055103	4246101385		103		NORTH PENBROOK SPRABERRY 5-0403913	SPRABERRY (TREND AREA	11.0	INTERNORTH INC
8254133	F-08-056038	4237131011		108		ROBERTA L #1	BELDING (YATES)	3.0	
8254131	F-08-056036	4213533899		103		SOUTH COWDEN UNIT #2-20	COWDEN (SOUTH)	14.0	ODESSA NATURAL CO
8253994	F-08-055696	4200333141		103		TEXAS UNIVERSITY #5	FUHRMAN MASCHO	1.0	
				RECEIVED:	09/09/82	JA: TX			
-PINTO PETROLEUM INC									
8253904	F-7B-055215	4213533936		102-4		HAL B PAGE "B" #3	PAGE (LAKE SAND)	37.0	LONE STAR GAS CO
				RECEIVED:	09/09/82	JA: TX			
-POLK & PATTON INC									
8253847	F-09-054740	4223700000		102-4		HAWTHORNE "OIL" #1-L	HAWTHORNE (MARBLE FAL	44.5	LONE STAR GAS CO
				RECEIVED:	09/09/82	JA: TX			
-PRAIRIE PRODUCING CO									
8254127	F-03-056020	4207131228		102-4		JOHN L EPLER #1 098412	FIG RIDGE N (8140) FI	300.0	AMOCO GAS CO
				RECEIVED:	09/09/82	JA: TX			
-PRODECO EXPLORATIONINC									
8253798	F-03-054220	4204130697		102-2		BERT WHEELER #4-T	KURTEN (BUDA)	42.2	FERGUSON CROSSING
8253922	F-03-055301	4204130697		102-2		BERT WHEELER 4-C	KURTEN (WOODBINE)	56.3	PRODUCER'S GAS CO
				RECEIVED:	09/09/82	JA: TX			
-PYRO ENERGY CORP									
8253902	F-7C-055200	4243532661		103	107-TF	KEENE #181-2	ALDWELL RANCH (CANYON	0.0	VALERO TRANSMISSI
				RECEIVED:	09/09/82	JA: TX			
-RAY HERRING									
8253880	F-7B-055017	4242932641		102-4		KEITH #1	DEANN (CONGLOMERATE F	126.0	WARREN PETROLEUM
				RECEIVED:	09/09/82	JA: TX			
-REEF OIL CORP									

JD NO	JA DKT	API NO
8253799	F-7B-054231	4208300000
-RK PETROLEUM CORP		
8254134	F-08-056039	4231732523
-ROBERT E BYRNE		
8253794	F-7B-054190	4213333501
-SAGE ENERGY CO		
8253912	F-7C-055247	4238300000
8253910	F-7C-055244	4238300000
8253835	F-7C-054639	4238300000
8253834	F-7C-054638	4238300000
8253911	F-7C-055245	4238300000
8253909	F-7C-055243	4238300000
-SANTA FE-WINDSOR PRODUCING CO		
8253804	F-03-054304	4228731201
8253938	F-03-055491	4228731248
-SAXON OIL COMPANY		
8254158	F-01-056082	4216331532
8254160	F-01-056084	4216331557
8254159	F-01-056083	4216331531
8254157	F-01-056081	4216300000
8254156	F-01-056080	4216331508
8254155	F-01-056079	4216331500
8254154	F-01-056078	4216331552
-SCARTH OIL & GAS CO		
8254065	F-10-055860	4229530521
8254066	F-10-055861	4229530611
-SERVICE DRILLING CO		
8253861	F-10-054884	4206531140
-SIDWELL OIL & GAS INC		
8254070	F-10-055874	4208700000
8254072	F-10-055876	4208700000
8254071	F-10-055875	4208700000
8254069	F-10-055873	4208700000
-SNOW OIL CO		
8253865	F-7B-054947	4213333868
8253864	F-7B-054945	4213333581
-SOHIO PETROLEUM CO		
8253996	F-7C-055699	4238332114
-SPARKMAN PRODUCING CO		
8253817	F-04-054475	4224931413
-SPINDLETOP OIL & GAS CO		
8253951	F-7B-055560	4236732107
-STAHL PETROLEUM CO		
8254016	F-10-055768	4217930983
8254082	F-10-055895	4217930880
-STEARNS OPERATING CO		
8253982	F-7B-055630	4204932411
8253981	F-7B-055629	4204932184
8253980	F-7B-055628	4204932289
8253979	F-7B-055627	4204932389
8253978	F-7B-055626	4204932842
-SUN EXPLORATION & PRODUCTION CO		
8253970	F-01-055594	4212732350

D	SEC(1)	SEC(2)	WELL NAME
	102-4		JAMES CALK #1
	RECEIVED:	09/09/82	JA: TX
	103		CASTLE 2-X WELL #27052
	RECEIVED:	09/09/82	JA: TX
	103		JOHNSON "A" #1
	RECEIVED:	09/09/82	JA: TX
	103		GULF STATE 15-G #2 RRC #09483
	103		UNIVERSITY 4-A #10 RRC #07703
	103		UNIVERSITY 4-A #7 RRC #07703
	103		UNIVERSITY 4-A #8 RRC #07703
	103		UNIVERSITY 4-A #9 RRC #07703
	103		UNIVERSITY 8-C #2 RRC #09384
	RECEIVED:	09/09/82	JA: TX
	103		NEWTON #2
	103		ROY UNIT #1
	RECEIVED:	09/09/82	JA: TX
	103		BAIN #1
	103		BAIN #3
	103		HEISER #1
	103		KINCAID #1
	103		KINCAID #2
	103		KING #1
	103		KING #2
	RECEIVED:	09/09/82	JA: TX
	108		PIPER 601-1
	108		PIPER 601-2
	RECEIVED:	09/09/82	JA: TX
	103		ARNOLD "A" #4
	RECEIVED:	09/09/82	JA: TX
	108		BETENBOUGH #3
	108		KAUFFMAN #1
	108		LAYCOCK #14
	108		LAYCOCK #19
	RECEIVED:	09/09/82	JA: TX
	102-4		KINCAID-NORTH #1
	102-4		RR #1 (18234)
	RECEIVED:	09/09/82	JA: TX
	103		E G CAUBLE "K" #6
	RECEIVED:	09/09/82	JA: TX
	102-4		L T BURNS #2
	RECEIVED:	09/09/82	JA: TX
	102-4		B MURRAY #1
	RECEIVED:	09/09/82	JA: TX
	103		SAYE #1
	108		WEBB "E" #1
	RECEIVED:	09/09/82	JA: TX
	103		GLADYS NICHOLS #2 ID #90218
	103		GLADYS NICHOLS "A" #1 ID #84144
	103		GLADYS NICHOLS "A" #2 ID #16128
	103		GLADYS NICHOLS "A" #3 ID #16128
	103		HENRY M FORD #1
	RECEIVED:	09/09/82	JA: TX
	103		BIG WELLS (SAN MIGUEL) UNIT #712

FIELD NAME	PROD	PURCHASER
CALK (GARDNER)	70.0	UNION TEXAS PETRO
SPRABERRY (TREND AREA	76.6	INTERNORTH INC
EASTLAND COUNTY REGUL	10.0	LONE STAR GAS CO
FARMER (SAN ANDRES)	1.4	INTERNORTH INC
FARMER (SAN ANDRES)	4.0	INTERNORTH INC
FARMER (SAN ANDRES)	1.6	INTERNORTH INC
FARMER (SAN ANDRES)	2.7	INTERNORTH INC
FARMER (SAN ANDRES)	2.9	INTERNORTH INC
FARMER (SAN ANDRES)	1.8	INTERNORTH INC
GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
GIDDINGS (BUDA)	36.5	PERRY PIPELINE CO
PEARSALL (AUSTIN CHAL	54.8	ESPERANZA TRANSMI
PEARSALL (AUSTIN CHAL	36.5	ESPERANZA TRANSMI
PEARSALL (AUSTIN CHAL	80.3	ESPERANZA TRANSMI
PEARSALL (AUSTIN CHAL	52.2	ESPERANZA TRANSMI
PEARSALL (AUSTIN CHAL	40.1	ESPERANZA TRANSMI
PEARSALL (AUSTIN CHAL	6.6	ESPERANZA TRANSMI
PEARSALL (AUSTIN CHAL	52.2	ESPERANZA TRANSMI
BRADFORD (CLEVELAND)	17.9	TRANSWESTERN PIPE
BRADFORD (CLEVELAND)	21.5	TRANSWESTERN PIPE
PANHANDLE CARSON BROW	20.0	GETTY OIL CO
PANHANDLE EAST	0.0	ASHLAND CHEMICAL
HANSFORD (LOWER MORRO	0.0	PANHANDLE EASTERN
PANHANDLE EAST	0.0	ASHLAND CHEMICAL
PANHANDLE EAST	0.0	ASHLAND CHEMICAL
REBECCA (MARBLE FALLS	44.0	LONE STAR GAS CO
CISCO (CONGL 3600)	106.0	ENSERCH EXPLORATI
CALVIN (DEAN)	6.2	EL PASO NATURAL G
WILDCAT	200.0	
DICEY S (STRAWN)	36.0	EMPIRE PIPELINE C
EAST PANHANDLE	0.0	PHILLIPS PETROLEU
EAST PANHANDLE	0.0	PHILLIPS PETROLEU
BROWN CO REG (MARBLE	109.0	SIOUX PIPE LINE C
BROWN CO REG (MARBLE	16.0	SIOUX PIPE LINE C
BROWN COUNTY REGULAR	4.0	SIOUX PIPE LINE C
BROWN COUNTY REGULAR	10.0	SIOUX PIPE LINE C
BROWN CO REG (MARBLE	100.0	SIOUX PIPELINE CO
BIG WELLS (SAN MIGUEL	5.0	HOUSTON PIPELINE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253971	F-8A-055597	4221900000		108		CENTRAL LEVELLAND UNIT #157	LEVELLAND	2.0	AMOCO PRODUCTION
8253957	F-8A-055575	4221900000		108		CENTRAL LEVELLAND UNIT #225	LEVELLAND	0.5	AMOCO PRODUCTION
8253969	F-08-055593	4213500000		108		FOSTER JOHNSON UNIT #3-1	FOSTER	1.5	ODESSA NATURAL CO
8253832	F-04-054612	4242731572		102-4		I V MONTALVO "A" #18U	SUN NORTH	118.0	
8253841	F-04-054671	4242700000		108		J F HALL STATE #10	RINCON NORTH	12.0	TRANSCONTINENTAL
*8253967	F-8A-055589	4207931496		103		LEAGUE 91 PROJECT #4-10	SLAUGHTER	12.0	AMOCO PRODUCTION
*8253966	F-8A-055588	4207931499		103		LEAGUE 91 PROJECT #4-13	SLAUGHTER	7.0	AMOCO PRODUCTION
8253962	F-08-055584	4213500000		108		NORTH LAWSON UNIT #10-4	LAWSON (SAN ANDRES)	0.8	PHILLIPS PETROLEU
8253958	F-08-055580	4213500000		108		NORTH LAWSON UNIT #14-10	LAWSON (SAN ANDRES)	0.3	PHILLIPS PETROLEU
8253960	F-08-055582	4213500000		108		NORTH LAWSON UNIT #6-3	LAWSON (SAN ANDRES)	0.7	PHILLIPS PETROLEU
8253959	F-08-055581	4213500000		108		NORTH LAWSON UNIT #6-5	LAWSON (SAN ANDRES)	0.5	PHILLIPS PETROLEU
8253961	F-08-055583	4213500000		108		PAUL MOSS UNIT #149	COWDEN SOUTH	0.4	ODESSA NATURAL CO
8253963	F-08-055585	4213500000		108		PAUL MOSS UNIT #182	COWDEN SOUTH	0.6	ODESSA NATURAL CO
8253965	F-08-055587	4213500000		108		PAUL MOSS UNIT #184	COWDEN SOUTH	0.5	ODESSA NATURAL CO
8253956	F-08-055574	4213500000		108		PAUL MOSS UNIT #41	COWDEN SOUTH	0.3	ODESSA NATURAL CO
8253964	F-8A-055586	4221900000		108		SOUTHEAST LEVELLAND UNIT #238	LEVELLAND	3.0	AMOCO PRODUCTION
8253968	F-8A-055591	4250132153		103		WASSON NORTH CLEARFORK UNIT #89	WASSON NE (CLEAR FORK	11.0	SHELL OIL CO
-SUN-KEY OIL CO INC				RECEIVED:	09/09/82	JA: TX			
8254116	F-7B-055978	4214330546		102-4		GLADIS PARR #1 (088212)	BYRNES (DUFFER)	292.0	NORTHERN GAS PROD
-TENNECO OIL COMPANY				RECEIVED:	09/09/82	JA: TX			
8253984	F-8A-055636	4244531050		103		PRENTICE (6700 CLEARFORK) UNIT #207	PRENTICE (6700')	0.0	AMOCO PRODUCTION
8254181	F-8A-056178	4250131941		103		PRENTICE (6700' CLEARFORK) #718	PRENTICE (6700' CLEAR	0.0	AMOCO PRODUCTION
8254183	F-8A-056182	4244531049		103		PRENTICE CLEARFORK UNIT #208	PRENTICE (6700)	0.0	AMOCO PRODUCTION
-TERRELL OPERATING CO				RECEIVED:	09/09/82	JA: TX			
8254054	F-7B-055823	4215131272		103		CHARLES H SCOTT #1 #17387	NOODLE NW (CANYON SAN	8.1	TEXAS UTILITIES F
8254051	F-7B-055820	4215131407		103		ESTHER WILLINGHAM #18114	ROYSTON (CANYON)	4.2	TEXAS UTILITIES F
8254055	F-7B-055824	4215131497		103		REVIS ROBERTSON (EAST) #3 (18407)	KEELER WIMBERLY (CANY	33.3	PALO DURO PIPELIN
8254050	F-7B-055819	4215131124		103		ROBERTA S FORD #1 #16534	NOODLE NW (CANYON SAN	0.5	TEXAS UTILITIES F
8254052	F-7B-055821	4215131192		103		ROBERTA S FORD "A" #1 RRC#16733	NOODLE NW (CANYON SAN	3.5	TEXAS UTILITIES F
8254053	F-7B-055822	4215131473		103		ROBERTA S FORD "B" #1 RRC #18322	NOODLE NW (CANYON SAN	12.2	TEXAS UTILITIES F
-TEXACO INC				RECEIVED:	09/09/82	JA: TX			
8254006	F-10-055731	4217900000		108		G H SAUNDERS NCT-3 #45	PANHANDLE GRAY COUNTY	0.3	COLTEXO CORP
8254005	F-10-055730	4217900000		108		G H SAUNDERS NCT-3 #46	PANHANDLE GRAY COUNTY	0.3	COLTEXO CORP
8253866	F-8A-054948	4221933391		103		MONTGOMERY ESTATE DAVIES NCT-2 #89	LEVELLAND	87.0	AMOCO PRODUCTION
8253867	F-8A-054951	4216532366		103		ROBERTSON UNIT #47	ROBERTSON N (CLEARFOR	16.8	PHILLIPS PETROLEU
-TEXAS CRUDE INC				RECEIVED:	09/09/82	JA: TX			
8254059	F-8A-055840	4221900000		103		CADDELL #1-11	LINKER (CLEAR FORK)	16.0	
8254060	F-8A-055841	4221900000		103		COOK #1-12	LINKER (CLEAR FORK)	13.0	
-TEXAS EASTERN TRANSMISSION CORP				RECEIVED:	09/09/82	JA: TX			
8254040	F-06-055886	4240100167		108		CARTHAGE UNIT 4 #1	CARTHAGE (PETTIT LOWE	0.0	TEXAS EASTERN TRA
-TEXAS GENERAL PETROLEUM CORP				RECEIVED:	09/09/82	JA: TX			
8253899	F-01-055183	4217731149		102-2		BILLY WINKENWERDER #1	PEACH CREEK (AUSTIN C	88.0	VALERO TRANSMISSI
8253932	F-06-055405	4200530106		103		OWENS-ILLINOIS #1	PLATT FIELD (LOWER PE	26.0	TEXAS EASTERN TRA
-TEXLAND-RECTOR & SCHUMACHER				RECEIVED:	09/09/82	JA: TX			
8254128	F-8A-056023	4221933438		103		J J STALLINGS #2	LEVELLAND	1.0	AMOCO PRODUCTION
-TEXOMA EXPLORATION INC				RECEIVED:	09/09/82	JA: TX			
8253896	F-05-055145	4229330570		103		KENNEDY #1 099215	GROESBECK (WOODBINE)	54.0	TEXAS UTILITIES F
-TEXONA OIL MANAGEMENT INC				RECEIVED:	09/09/82	JA: TX			
8253974	F-03-055613	4232500000		102-4		OSCAR KOENIG #5	LANDON W (NAVARRO)	0.0	VALERO TRANSMISSI
-THOMAS-POWELL ROYALTY INC				RECEIVED:	09/09/82	JA: TX			
8254043	F-7C-055809	4239932399		102-4		CURNUTTE #2 (09152)	WINGATE NW (GARDNER)	28.0	UNION TEXAS PETRO
8254048	F-7C-055814	4239931936		102-4		L B HENSLEY #2 (09314)	WINGATE NW (GRAY)	33.0	UNION TEXAS PETRO
8254044	F-7C-055810	4239931943		102-4		MIKESKA #2 (08628)	WINGATE NW (GRAY)	40.0	UNION TEXAS PETRO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8254045	F-7C-055811	4239931797		102-4		PHILLIPS #3 (08370)
8254135	F-7C-056041	4239932205		102-4		SCHULTZ #1 (09340)
8254047	F-7C-055813	4239931940		102-4		VICK # (08683)
8254063	F-7C-055850	4239931691		102-4		VICK #1-1 (09365)
8254046	F-7C-055812	4239931939		102-4		VICK #2 (08683)
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:		09/09/82 JA: TX
8253946	F-7C-055526	4210534030		102-4		CLAYTON "B" #1
8253831	F-7C-054574	4210533991		103	107-TF	UNIVERSITY 30-3 #1
-THOMSON-MONTEITH				RECEIVED:		09/09/82 JA: TX
8253840	F-08-054665	4232931058		103		WINDHAM 24 WELL #1
8253839	F-08-054664	4232931060		103		WINDHAM 24 WELL #2
8253838	F-08-054663	4232931064		103		WINDHAM 24 WELL #3
-THROCKMORTON GAS SYSTEMS				RECEIVED:		09/09/82 JA: TX
8253818	F-7B-054496	4244732508		102-2		KEETER #2
8253811	F-7B-054380	4244700000		102-2		RICHARDS "A" #16
8253852	F-7B-054788	4244733005		102-2		SULLIVAN #11
8253851	F-7B-054787	4244733002		102-2		SULLIVAN #15
-TOM BROWN INC				RECEIVED:		09/09/82 JA: TX
8253942	F-08-055512	4231732462		103		WOODY A #1-32
8253941	F-08-055511	4231732462		103		WOODY B #1-37
8253940	F-08-055510	4231732462		103		WOODY C #1-31
-TOMMY LITTLEPAGE				RECEIVED:		09/09/82 JA: TX
8253821	F-09-054518	4250300000		103		MCGEE #19152
-TONK VALLEY PRODUCTION CO				RECEIVED:		09/09/82 JA: TX
8254114	F-7B-055974	4213333199		102-4		HUNT #H-1 (17789)
8254115	F-7B-055975	4213332798		102-4		L DILLINDER #C-1 (16802)
8254113	F-7B-055973	4213332922		102-4		ROBERTSON #D-1 (17790)
-UNION TEXAS PETROLEUM				RECEIVED:		09/09/82 JA: TX
8253872	F-7C-054993	4223531905		103		SUGG "2" #1
-UNITED CO				RECEIVED:		09/09/82 JA: TX
8254078	F-8A-055891	4207930915		108		ROBERTA WRIGHT #1 079427
8254081	F-8A-055894	4207930493		108		SEABOARD WRIGHT #17 062163
8254080	F-8A-055893	4207930491		108		SEABOARD WRIGHT #18 071354
8254079	F-8A-055892	4207930912		108		STUART P WRIGHT #1 078229
-VERNON DAVENPORT PROD CO				RECEIVED:		09/09/82 JA: TX
8253845	F-10-054732	4248300000		108		BLACKKETTER #1
-W L LINDEMANN DRILLING CO				RECEIVED:		09/09/82 JA: TX
8253862	F-09-054927	4207732509		102-4	103	N H STARNES #1
8253953	F-09-055564	4207732510		102-4	103	N H STARNES #2
-W W WEST				RECEIVED:		09/09/82 JA: TX
8254003	F-7B-055728	4239930567		108		JAMES A NEAL
8254013	F-7B-055747	4208331667		108		JAMES A NEAL #2
8254012	F-7B-055746	4239931416		103		JAMES A NEAL #3
8254014	F-7B-055748	4233931323		103		JAMES A NEAL #3
-WAGNER & BROWN				RECEIVED:		09/09/82 JA: TX
8254061	F-08-055843	4243131149		103		BARBEE #2-6
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:		09/09/82 JA: TX
8254093	F-7B-055911	4242900000		108		R S TAYLOR #1
8254092	F-7B-055910	4242900000		108		R S TAYLOR #2
8254099	F-08-055917	4210332888		103		STATE "EF" #26
-WAYNE HARPER				RECEIVED:		09/09/82 JA: TX
8253943	F-09-055517	4209731797		103		JOE DILLARD #6
8253944	F-09-055521	4209731862		103		WILLIAM HOWELL "B" #4

FIELD NAME	PROD	PURCHASER
WINGATE NW (GRAY)	51.0	UNION TEXAS PETRO
WINGATE NW (CAPPS)	27.0	UNION TEXAS PETRO
WINGATE NW (GRAY)	42.0	UNION TEXAS PETRO
WINGATE NW (GARDNER)	72.0	UNION TEXAS PETRO
WINGATE NW (GREY)	24.0	UNION TEXAS PETRO
ADDIE (PENN) A#3	300.0	PHILLIPS PETROLEU
OZONA (CANYON SAND)	60.0	PHILLIPS PETROLEU
PARKS SPRABERRY	0.7	MOBIL PROD TEXAS
PARKS (SPRABERRY)	0.7	MOBIL PRODUCING T
PARKS WOLFCAMP 9335*	3.5	MOBIL PRODUCING T
THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
YOUNG COUNTY REGULAR	10.0	GAS ASSOCIATED SY
DESDEMONA N (CONGL)	1.0	NORTHERN GAS PROD
DESDEMONA N (CONGL)	11.0	NORTHERN GAS PROD
DESDEMONA N (CONGL)	1.0	NORTHERN GAS PROD
ANDREW A (CANYON)	113.2	CRA INC *
LEVELLAND (SAN ANDRES	14.7	EL PASO NATURAL G
LEVELLAND (SAN ANDRES	15.6	EL PASO NATURAL G
LEVELLAND (SAN ANDRES	13.4	EL PASO NATURAL G
LEVELLAND (SAN ANDRES	2.4	EL PASO NATURAL G
EAST PANHANDLE	11.5	EL PASO NATURAL G
TALLY (CONGLOMERATE)	0.0	TEXAS UTILITIES F
TALLY (CONGLOMERATE)	0.0	TEXAS UTILITIES F
BURT-OGEN MABEE	0.0	VALERO TRANSMISSI
BUNT-OGEN-MABEE	0.0	VALERO TRANSMISSI
BURT-OGEN-MABEE	0.0	VALERO TRANSMISSI
BURT-OGEN-MABEE	0.0	VALERO TRANSMISSI
CONGER (PENN)	41.6	TEXAS UTILITIES C
NECESSITY (MARBLE FAL	8.0	LONE STAR GAS CO
STEPHENS COUNTY REG (	6.6	LONE STAR GAS CO
DUNE	2.2	EL PASO NATURAL G
SIVELLS BEND	20.0	
SIVELLS BEND	25.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8253945	F-09-055524	4209731619		103		WM HOWELL "A" #1
-WELCOME WELL SERVICE & BOYKIN BROS				RECEIVED:		09/09/82 JA: TX
8253998	F-7B-055702	4213333300		102-4		CAIN #1 (18090)
8253999	F-7B-055703	4213333352		102-4		CAIN #2 (18090)
				RECEIVED:		09/09/82 JA: TX
-WES-MOR DRILLING INC						
8254119	F-7B-055984	4242933265		103		KENNEDY #2 RRC ID #099947
8253890	F-09-055100	4250334564		103		WEAVER #2 RRC ID #20932
				RECEIVED:		09/09/82 JA: TX
-WES-TEX DRILLING COMPANY						
8254058	F-7B-055836	4235331254		103		J M MCLAUGHLIN #5
				RECEIVED:		09/09/82 JA: TX
-WHITLEY & YOCHAM OIL CO						
8253868	F-7C-054957	4238332129		103		SCOTT "B" 4
				RECEIVED:		09/09/82 JA: TX
-WILHAM INVESTMENTS INC						
8254122	F-10-056004	4206531006		103		MOBIL FEE (61) (05025) #1
				RECEIVED:		09/09/82 JA: TX
-WILLIAM E WENDON JR						
8253992	F-08-055686	4249531404		103		MITCHELL "20" #1
8253991	F-08-055685	4249531392		103		MITCHELL "21" #2
8253988	F-08-055677	4249531326		103		MITCHELL "25" #1
8253989	F-08-055683	4249531246		103		SEALY-SMITH FOUNDATION "31" #2
8253990	F-08-055684	4249531253		103		SIMPSON #1
				RECEIVED:		09/09/82 JA: TX
-WILLIAM M SIEGEL						
8253888	F-09-055044	4207732636		102-4		VEITH #22259
				RECEIVED:		09/09/82 JA: TX
-WORLDWIDE ENERGY CORPORATION						
8253816	F-06-054451	4242330564		102-4		HOUSTON HEIRS #1
				RECEIVED:		09/09/82 JA: TX
-3 W OIL INC						
8254124	F-10-056006	4217931092		103		ARKIE-BILL (05033) #1
8254123	F-10-056005	4217931096		103		ARKIE-BILL "A" (05045) #3
8254125	F-10-056007	4217931081		103		TIEMAN ESTATE (04933) #2

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FIELD NAME	PROD	PURCHASER
SIVELLS BEND	23.0	
CARBON (MARBLE FALLS)	12.0	NORTHERN GAS PROD
CARBON (MARBLE FALLS)	10.0	NORTHERN GAS PROD
STEPHENS COUNTY REGUL	161.7	SUN GAS TRANSMISS
YOUNG COUNTY REGULAR	84.0	J H TAYLOR GAS CO
ADAIR CREEK (COOK SAN	0.0	SUN GAS CO
JOHN SCOTT (GRAYBURG)	2.2	NEW ENERGY CO
PANHANDLE CARSON COUN	21.0	GETTY OIL CO
HALLEY SOUTH (PENN)	55.0	AMOCO PRODUCTION
HALLEY SOUTH (PENN)	20.0	AMOCO PRODUCTION
HALLEY SOUTH (ATOKA)	41.0	AMOCO PRODUCTION
PALADIN (PENN)	26.0	AMOCO PRODUCTION
PALADIN (PENN)	7.0	AMOCO PRODUCTION
DEER CREEK "ISRAEL 50	51.8	FAGADAU ENERGY CO
SUNSHINE	0.0	SEMCO GAS INC
PANHANDLE GRAY COUNTY	118.0	CABOT PIPELINE CO
PANHANDLE GRAY COUNTY	104.0	CABOT PIPELINE CO
PANHANDLE GRAY COUNTY	114.0	CABOT PIPELINE CO

OTHER PURCHASERS VOLUME NO :743

8253914	COLTEXO CORP
8253915	COLTEXO CORP
8253916	COLTEXO CORP
8253917	COLTEXO CORP
8253918	COLTEXO CORP
8253919	COLTEXO CORP
8253920	COLTEXO CORP
8253929	TEXAS UTILITIES FUEL CO
8253939	TEXAS UTILITIES FUEL CO
8253966	EL PASO NATURAL GAS CO
8253967	EL PASO NATURAL GAS CO
8254002	E I DUPONT DE NEMOURS & CO INC
8254085	EL PASO NATURAL GAS CO
8254094	EL PASO NATURAL GAS CO
8254095	EL PASO NATURAL GAS CO
8254108	E I DUPONT DENEMOURS & CO INC
8254109	E I DUPONT DE-NEMOURS & CO INC
8254110	E I DUPONT DE-NEMOURS & CO INC
8254111	E I DUPONT DE-NEMOURS & CO INC
8254112	E I DUPONT DE-NEMOURS & CO INC

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27013 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-35-000]

American Resources Management Corp.; Petition for Adjustment

Issued: September 24, 1982.

On September 15, 1982, American Resources Management Corporation (ARMC) filed with the Federal Energy Regulatory Commission (Commission) a petition for an adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. §§ 3301–3432 (Supp. IV 1980) and Subpart K of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101–.1117 (1982).

ARMC seeks a waiver of § 273.204(c)(1) of the Commission's regulations, which requires a 45-day waiting period between the date a well category determination becomes final and the date the producer is allowed to retroactively collect the NGPA rate for which a well has qualified. ARMC alleges that the 45-day waiting period required by the Commission's regulations causes it to suffer special hardship and inequity. ARMC alleges that in the 45 days after NGPA section 107(c)(5) tight sands well category determinations for five wells become final, it will pay $14,335.93 in interest, at 18 percent, on unpaid accounts due. The NGPA determinations became final on September 19, 1982. The 45-day period ends November 3, 1982. ARMC therefore requests a waiver of § 273.204(c)(1) so it may begin collecting a tight sands price for its gas and pay its creditors.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure, Order No. 225, issued April 28, 1982, effective August 26, 1982 (47 FR. 19014, May 3, 1982).

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27010 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2600-001 and 2600-002]

Bangor Hydro-Electric Co.;

Amended Notice of Application for New License and Amendment of License [1]

September 24, 1982.

Take notice that Bangor Hydro-Electric Company (Applicant) filed on August 4, 1982, and 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 the West Enfield Project No. 2600. The project would be located on the Pensobscot River in W. Enfield and Howland, Penobscot County, Maine. Correspondence with the Applicant should be directed to: Robert S. Briggs, Vice President, Bangor Hydro-Electric Company, 33 State Street, Bangor, Maine 04401.

Project Description —The W. Enfield project presently consists of: (1) a dam on the Penobscot River about 980 feet long and about 20 feet high in three sections, (a) a rock-filled timber crib, topped by four-foot flashboards, and containing a 10-foot log sluice and a 30-foot raft sluice, (b) a concrete gated section, and (c) a granite masonry gate-house structure with 13 concrete gates, 7x7.5 feet together with a auxillary earth dam (Runaround) located on the west bank of Merrill Brook about 200 feet long and 15 feet high containing three steel gates controlling diversions to the Piscataquis River, (2) a reservoir at normal elevation 154.75 feet about 7.3 miles long with an area of about 1,050 acreas; (3) a canal from the gate-house on the left bank to the powerhouse forebay about 1,390 feet long and varying from 100 to 240 feet wide; (4) a concrete-brick powerhouse in two sections containing (a) a 1,400-kw generating unit and (b) two 1,200-kw generating units, (5) and outdoor substation with three step-up 2.3–46 kV transformers aggregating 5,000 kVa capacity, (6) a substation with a step-up 2.3–12.5/7.2 kV transformer with 4,500 kVa capacity, for local distribution, and (7) appurtenant facilities:

Applicant requests that the license for the W. Enfield Project be amended by changing the expiration date of the license from December 31, 1987, to coincide with the date of issuance of a new 50 year license for the redevelopment and continued operation of the W. Enfield Project.

Applicant proposes under the new license: (1) To install a new powerhouse containing 5 new turbine-generators with a total rated capacity of 13 MW and new gate house within the power canal and located approximately 800 feet downstream of the existing power canal inlet gate structure (The existing gate structure and powerhouse would be removed); (2) to increase the hydraulic capacity to the existing canal and rehabilitate the existing canal embankment/training wall to accommodate an inlet flow to and outlet flow from the new powerhouse of up to 9,000 cfs; (3) to increase the normal water surface elevation of the reservoir by 9 inches to 155.5 feet m.s.l. by installing new flashboards with a total height of 5.6 feet (4) to install two new fishways to insure adequate passage to anadromous fishes; (5) to construct a new 800-foot-long, 46-kV transmission line. The redeveloped project would generate an additional 52,700,000 Kwh annually. Energy produced at the project would be utilized within the Applicants distribution system.

Project No. 2600 would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act. The Applicant has calculated that the estimated net investment in the project would amount to $2,294,491 as of December 31, 1981. The Applicant's estimated severance damages as of December 31, 1981, would amount to $100,000.

Competing Applications —Anyone desiring to file a competing application must submit to the Commission, on or before *March 9, 1983,* a competing application. [See 18 CFR § 4.33(d)(e) and 18 CFR part 16 (1981)].

Comments, Protests, or Motions To Intervene —Anyone may file comments, a protests, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 Fed. Reg. 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 29, 1982.

Filing and Service of Responsive Documents —Any filings must bear in

[1] This notice supersedes the previously published notices of September 23 and September 30, 1982; 47 FR (39229) (September 7, 1982)

all capital letters the title "COMMENTS", "COMPETING APPLICATION", "PROTEST", OR "MOTION 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 22426. An additional copy must be sent to: Fred E. Springer, Chief, Application Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any competing application or motion 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. 82-27011 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP68-5-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Petition To Amend

September 27, 1982.

Take notice that on September 17, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Petitioner) 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP68-5-000 a petition to amend the order issued December 11, 1967,[1] in Docket No. CP68-5 as amended, pursuant to Section 7(c) of the Natural Gas Act to eliminate the requirement that there would be no additional reduction in the heating value of the gas stream downstream from Bushton, Kansas as a result of the extraction of ethane, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it presently is authorized to deliver up to approximately 962,400 Mcf of gas per day to Northern Gas Products Company (NGP) for the extraction of propane, butanes, natural gasoline and ethane at NGP's Bushton complex. The natural gas delivered to the Bushton complex is produced principally from the Hugoton Field and Anadarko Basin producing areas. Petitioner states that the Hugoton Field gas is low in Btu and high in nitrogen content, whereas the Anadarko Basin gas has a higher Btu and a lower nitrogen content.

Petitioner asserts that under the Btu equivalency constraint of the December 11, 1967, order, the ethane plant cannot operate independently from the helium plant. It is explained that the helium plant must be operated whenever ethane is extracted at the ethane plant from the natural gas stream entering this plant because nitrogen and helium (inerts) are extracted from such volumes at this helium plant in order to maintain the heating content of the gas downstream of the Bushton complex in accordance with the December 11, 1967, order. To provide sufficient rejection of nitrogen to assure that there would be no additional reduction in the heating value of the gas stream as it emerges from Petitioner's Bushton, Kansas compressor station, requires that at least 380,000 Mcf per day of Hugoton Field quality gas flow through the Helium Plant, it is claimed. It is further maintained that flow rates below 380,000 Mcf per day through the Helium Plant would thwart the delicate design balance of the helium plant and thereby create high risks, physical damages and operating unknowns, which have necessitated a shutdown of the helium plant.

Petitioner alleges that since late March 1982, the flow of Hugoton Field gas has averaged approximately 200,000 Mcf per day, and that this volume contains insufficient inerts to permit ethane extraction in accordance with the present Commission order. Petitioner states that since the helium plant is the sole mechanism used to reject inerts, to maintain the heating content of the gas downstream of Petitioner's Bushton, Kansas compressor station, the ethane plant cannot be operated in compliance with December 11, 1967, order.

It is asserted that removal of the heating value balancing requirement would enable the ethane plant to operate independently of flows of Hugoton Field quality gas through the helium plant. To provide for the removal of the heating value balancing requirement, Petitioner and NGP have entered into an agreement dated August 27, 1982, which provides, *inter alia*, it is said, that NGP agrees that its extraction of ethane from the natural gas stream delivered by Petitioner would not cause, at any time the weighted average of the gross heating value of the natural gas being delivered to Petitioner's principal market area in the composite of Petitioner's main transmission lines downstream of Petitioner's Bushton compressor station to be less than Petitioner's tariff requirements as approved by the Commission, it is stated.

Petitioner asserts that as part of its general rate increase filing with the Commission in Docket No. RP82-71, it proposed, *inter alia*, (1) to adjust the commodity portions of the gas bills for its Market Area Sales to reflect the Btu content of gas delivered, and (2) to lower the Btu minimum of its gas to 950. Petitioner would effectuate the proposed tariff provisions, subject to refund, on October 27, 1982. Petitioner requests that the order amending the certificate become effective on October 27, 1982. It is stated that implementation of the revised tariff provisions would result in a billing procedure whereby Petitioner's customers would be charged on the basis of heating value received.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27012 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-804-000]

American Electric Power Service Corp.; Filing

September 24, 1982.

Take notice that American Electric Power Service Corporation (AEP) on September 17, 1982, tendered for filing on behalf of its affiliate Indiana & Michigan Electric Company (I&ME) Modification No. 14 dated July 15, 1982 to the Interconnection Agreement dated July 20, 1956 between Commonwealth Edison Company (Commonwealth) and I&ME, I&ME's Rate Schedule FERC No. 20, and Commonwealth's Rate Schedule FERC No. 2

AEP states that Section 1 of this Agreement modernizes the Billing and Payment Article of the Interconnection Agreement, while Sections 2 and 3 provide for an increase in the demand rate for Short Term Power and Limited Term Power to $1.25/KW-week and $6.50/kW-month respectively when I&ME is the supplying party. Commonwealth's demand rates will remain at their previous level of $1.05/

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

kW-week and $5.50/kW-month for Short Term Power and Limited Term Power respectively. Section 4 of this Agreement revises the Compensation section of the Emergency Service Schedule. The changes made in these service schedules in this Agreement are to comply with the Commission's Order 84 and to substantially conform with the terms and conditions in other Service Schedules previously filed by AEP and have been accepted for filing by the Commission.

AEP requests an effective date of October 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Commonwealth Edison Company, ther Public Service Commission of Indiana, the Michigan Public Service Commission, and the Illinois Commerce Commission.

Any person desiring to be heard or to protect said filing should file a motion to intervene or protect with the Federal Energy Regualtory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions of protests should be filed on or before October 12, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26875 Filed 9-29-82; 8:45am]

BILLING CODE 6717-01-M

[Docket No. ER82-805-000]

American Electric Power Service Corp.; Filing

September 24, 1982.

Take notice that American Electric Power Service Corporation (AEP) on September 20, 1982, tendered for filing on behalf of its affiliate Ohio Power Company (OPCO) Modification No. 10 dated July 1, 1982 to the Facilities and Operating Agreement dated May 1, 1967 between Dayton Power & Light Company (Dayton) and OPCO, OPCO's Rate Schedule FERC No. 36 and Dayton Rate Schedule FERC No. 31.

AEP states that Section 1 of this Agreement modernizes the Billing and Payment article of the facilities and Operating Agreement. Sections 2 and 3 of this Agreement update the Emergency Service and the Interchange Power Service Schedules. Sections 4 and 5 provide for an increase in the capacity demand rate for Short Term and Limited Term Power to $1.25 per kilowatt per week and $6.50 per kilowatt per month respectively and increases Dayton's Short Term and Limited Term Power transmission demand rate to $0.24 per kilowatt per week and $1.00 per kilowatt per month respectively. The Short Term Power Service Schedule has been revised to include a provision to allow for the sale of Short Term Power on a daily basis. The changes made in these Service Schedules in this Agreement to comply with the Commission's Order 84 and to substantially conform with the terms and conditions in other Service Schedules previously filed by AEP and which have been accepted for filing by the Commission. This Agreement is proposed to become effective October 1, 1982.

AEP requests an effective date of October 1, 1982, and therefore request waiver of the Commission's notice requirements.

Copies of this filing were served upon the Dayton Power & Light Company and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 13, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26876 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-808-000]

Bangor Hydro-Electric Co.; Filing

September 24, 1982.

Take notice that on September 20, 1982, Bangor Hydro-Electric Company (Bangor) tendered for filing a Sales Agreement (Agreement) made as of August 18, 1982 between Bangor and Fitchburg Gas and Electric Light Company (Fitchburg) for the sale of unit power by Bangor to Fitchburg.

Bangor states that the Agreement provides for a unit sale of 10,000 kilowatts from Bangor's entitlement in the Mystic Unit No. 7, owned and operated by the Boston Edison Company (Boston), to Fitchburg. Bangor has such entitlement under contract for the proposed term of the Agreement from Boston. Such contract has been accepted for filing as Boston's Rate Schedule FPC No. 106. The Agreement provides that Fitchburg pay for the capacity at the rate of $58 per kilowatt per year and for their pro-rate share of the actual energy costs.

Bangor requests an effective date of August 18, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon Fitchburg.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 13, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26877 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-526-000]

Columbia Gas Transmission Corp.; Application

September 24, 1982.

Take notice that on September 9, 1982, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP82-526-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of 48 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Kentucky, Inc.: 8 taps for residential service—estimated annual usage of 1,200 Mcf.

(2) Columbia Gas of Ohio, Inc.: 20 taps for residential service; 1 tap for commercial service; 1 tap for combined residential and industrial service; 2 taps for industrial service—estimated annual usage of 14,070 Mcf.

(3) Columbia Gas of Pennsylvania, Inc.: 1 tap for commercial service—estimated annual usage of 1,370 Mcf.

(4) Columbia Gas of West Virginia, Inc.: 13 taps for residential service; 1 tap for industrial service—estimated annual usage of 7,955 Mcf.

(5) The Dayton Power and Light Company: 1 tap for residential service—estimated annual usage of 150 Mcf.

Applicant estimates that the total cost of the interconnections proposed herein is $14,480 to be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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 motion 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 motion 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. 82-26878 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-409-000]

Louisiana Gas Intrastate, Inc. of Shreveport; Application

September 24, 1982.

Take notice that on August 13, 1982, Louisiana Gas Intrastate Inc. of Shreveport (Applicant), 890 Dresser Tower, Houston, Texas 77002 filed in Docket No. ST82-409-000 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA) and Section 284.123(b)(2) of the Regulations for approval of the the rates and charges to be assessed by Applicant for transportation services to be provided for Texas Gas Transmission Company (Texas Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is an intrastate natural gas pipeline within the meaning of Louisiana law with approximately 200 miles of pipeline located in Bienville, Claiborne, Jackson, Lincoln, Natchitoches, Ouachita, Union and Webster Parishes, Louisiana. Through a transportation agreement entered into with its sister corporation, Louisiana Gas Purchasing Corporation, Applicant states its system is operated as a totally integrated pipeline facility.

Pursuant to an agreement between Applicant and Texas Gas dated July 15, 1982, Applicant has agreed to transport up to 12,500 million Btu's of natural gas per day for Texas Gas. For such service Applicant would charge Texas Gas a rate of 25.75 cents per million Btu. Applicant asserts that the proposed rates are fair and equitable and not in excess of an amount which is reasonably comparable to the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service within the meaning of Section 311(a)(2)(B)(i) of the NGPA. Applicant further asserts that the rates are necessary reasonably to compensate Applicant for expenses incurred in connection with the transportation service and to provide Applicant with the opportunity to earn a reasonable profit on such services. Applicant also asserts that the proposed rate is equal to the rate approved by the Commission by operation of Section 284.123(b)(2)(ii) of the Commission's Regulations in Docket Nos. ST82-7 and ST82-8.

Applicant indicates that the local authorization necessary to provide the transportation services for an interstate pipeline has already been obtained from the appropriate Louisiana officials.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). 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 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26879 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-494-000]

Natural Gas Pipeline Company of America; Application

September 24, 1982.

Take notice that on August 17, 1982, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-494-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain gas purchase facilities located in the Pita S. E. Field, Kleberg County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated Applicant seeks to abandon a 3-inch measuring facility, 28,417 feet of 4-inch pipeline and other appurtenant facilities which connect the State Tract 172 Well No. 1, in Laguna Madre Area, Kleberg County, Texas to the pipeline facilities of Florida Gas Transmission Company. Applicant states that there are no remaining salvable recoverable gas reserves that can be produced from the State Tract 172 Well No. 1 which was plugged and abandoned on December 15, 1981.

It is further stated that Applicant would remove all salvable facilities and retain them in stock until needed for reuse at another location. Applicant

asserts that abandonment of the facilities would not cause any termination of service to any customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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 motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion 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. 82-26880 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-505-000]

Natural Gas Pipeline Company of America; Application

September 24, 1982.

Take notice that on August 24, 1982, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-505-000 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 the account of Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company (referred to collectively as Columbia) and the construction and operation of certain pipeline, a tap and meter station, and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has contracted to transport a daily demand quantity of 56,500 million Btu's of natural gas on a firm basis, and up to 14,125 million Btu's of overrun gas, on a best efforts basis, for Columbia from the terminus of the Trailblazer System in Gage County, Nebraska for redelivery at the proposed interconnection between Applicant and Columbia at Pecan Lake, in Cameron Parish, Louisiana.

Applicant proposes initially to charge Columbia a monthly transportation demand charge of $7.78 times the demand quantity. Columbia would also pay Applicant a monthly charge of 25.60 cents per million Btu for overrun gas delivered at Applicant's receipt point.

Applicant further proposes that if the facilities proposed in the instant docket are certificated before Applicant's applications at Docket Nos. CP82-293-000 and CP82-355-000, Applicant requests authorization to construct and operate 3.66 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 certificated in Docket No. CP82-50-000 to permit the firm redelivery of 56,500 million Btu's per day to Columbia. Applicant also proposes to construct one 12-inch tap and a meter station with one 12-inch meter run at the Pecan Lake redelivery point in Cameron Parish, Louisiana, a valve and regulator at Station 302, and appurtenant facilities.

It is estimated that the cost of the proposed Louisiana Line facilities would be $3,648,150 which cost would be financed initially by funds on hand, issuance of commercial paper, use of existing bank lines of credit or other interim financing arrangements as may be negotiated. Permanent financing subsequently would be undertaken as part of Applicant's overall long term financing program.

As an alternate proposal, Applicant states that if its application at Docket No. CP82-293 is approved before the present application, Applicant would propose to construct and operate 5.05 miles of 36-inch diameter pipeline loop on its Louisiana Line extending eastward from the east end of the 8.16-mile pipeline loop certificated in Docket No. CP82-293-000, one 12-inch meter run at Pecan Lake and appurtenant facilities. It is stated that the estimated cost of this alternate proposal would be $4,275,371, which cost would be financed in the same manner as is described for the first proposal for the Lousiana Line facilities.

The proposed service and facilities, it is stated, would provide transportation of Columbia's Rocky Mountain gas supplies from the terminus of the Trailblazer System in Gage County, Nebraska, for redelivery of the proposed interconnections at Pecan Lake, Cameron Parish, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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 motion 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 motion 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 necessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26881 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-809-000]

Niagara Mohawk Power Corp.; Filing

September 24, 1982.

Take notice that Niagara Mohawk Power Corporation (Niagara), on September 20, 1982, tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated August 23, 1982.

Niagara presently has on file an agreement with Rochester dated July 3, 1980 and amended June 8, 1981. This agreement is for the transmission of Rochester's share of the Oswego #6 generation unit over Niagara's transmission system to Rochester.

The August 23, 1982 agreement contained in this filing revises the transmission rate for transmitting Oswego Unit #6 power and from the Oswego Unit #6 generating station to Rochester as provided for in the terms of the original agreement.

Niagara requests waiver of the Commission's notice requirements in order to allow an effective date of July 1, 1982.

Copies of this filing were served upon Rochester and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 13, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26882 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-810-000]

Portland General Electric Co.; Filing

September 24, 1982.

Take notice that on September 20, 1982, Portland General Electric Company (PGE) tendered for filing the written report regarding Average System Cost (ASC) prepared by the Bonneville Power Administration (BPA), the BPA's Average System cost determination and PGE's Appendix 1, Schedule 5. This determination was made on August 30, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 13, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26883 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-508-000]

Quivira Gas Co.; Application

September 24, 1982.

Take notice that on August 20, 1982, Quivira Gas Company (Applicant), P.O. Box 2256, Wichita, Kansas 67201, filed in Docket No. CP82-508-000 an application pursuant to Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA) and Section 284.127 of the Commission's Regulations for authorization to provide an intrastate transportation service for Tennessee Gas Transmission Company, a Division of Tenneco, Inc. (Tennessee) for a term of ten years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is a Kansas corporation which owns and operates intrastate natural gas pipeline systems in five states, including Mississippi. Applicant avers Tennessee has purchased natural gas from producers in Jefferson Davis and Marion Counties, Mississippi, and that Applicant owns and operates all pipeline facilities necessary to transport Tennessee's gas to connections in those counties to the intrastate pipeline system of Mississippi Fuel Company (MFC). Applicant states that its pipeline system consists of a nine mile 6-inch pipeline which connects three wells in the Vintage Field with MFC's line in Jefferson Davis County and nineteen miles of 4-inch and 6-inch pipeline which connects fifteen wells in Newsom, East Morgantown and South Morgantown Fields to MFC's line in Marion County. Applicant indicates that MFC would redeliver equal quantities of gas to an interconnection on Tennessee's line in eastern Mississippi.

Pursuant to Section 311(a)(2) of the NGPA, Applicant proposes to transport up to 20,950 Mcf of natural gas per day for a term up to and not exceeding ten years. The estimated total volumes of gas to be transported would be 32,600,000 Mcf for the ten year term. For such service Applicant proposes to charge Tennessee a transportation rate of $0.120 per Mcf of natural gas delivered for Tennessee's account to MFC. Applicant further states that this rate would be adjusted at annual intervals to reflect actual increases in taxes, operating, and maintenance costs to Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26884 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-806-000]

San Diego Gas & Electric Co.; Filing

September 24, 1982.

Take notice that on September 20, 1982, San Diego Gas & Electric Company (SDG&E) tendered for filing as an initial rate schedule an Economy Energy Agreement and Schedule Outage Assistance Agreement between SDG&E and Plains Electric Generation and Transmission Cooperative, Inc. (Plains), dated August 4, 1982.

SDG&E requests an effective date of August 4, 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 motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 13, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26885 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-1969-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Petition To Amend

September 24, 1982.

Take notice that on August 18, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. G-1969-000 a petition to amend the order [1] issued in Docket No. G-1969 pursuant to Section 7(c) of the Natural Gas Act so as to reduce the maximum daily quantity of natural gas Petitioner is authorized to transport on behalf of Iroquois Gas Corporation (Iroquois), to add two delivery points in Erie County, New York, and to reflect Natural Fuel Gas Supply Corporation's (Natural Fuel) acquisition by merger of certain properties of Iroquois, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that in Docket No. G-1969 it currently is authorized to transport on a firm basis for Iroquois and its affiliates, Pennsylvania Gas Company (PGC) and United Natural Gas Company (UNGC) up to 49,728 Mcf of natural gas per day under Petitioner's transportation Rate Schedule T-1 of its FERC Gas Pipeline Tariff. It is further stated that National Fuel Gas Supply Corporation (National Fuel) received authorization in Docket No. CP73-294 to acquire by merger, effective July 10, 1974, certain natural gas transmission, storage, and production properties of Iroquois.

Petitioner maintains that production has declined from the properties which are the source of the natural gas authorized to be transported by Applicant in Docket No. G-1969. Therefore, at National Fuel's request, Petitioner proposes to substitute National Fuel for Iroquois, PGC, and UNGC and to reduce the quantity of natural gas Petitioner is authorized to transport hereunder from 49,728 Mcf per day to 30,000 Mcf per day. In addition, Petitioner proposes to establish two new delivery points at existing interconnections between Petitioner's and National Fuel's pipelines in Erie County, New York.

Petitioner indicates that it would charge National Fuel a transportation rate based on a demand charge equal to the aggregate of $8.84 multiplied by the maximum daily volume and a volume charge equal to 56.24 cents per Mcf of gas delivered. Petitioner also indicates that there are provisions for a minimum monthly bill.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26886 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-75-000]

Texas-New Mexico Power Co; Application

September 24, 1982.

Take notice that on September 16, 1982, Texas-New Mexico Power Company (Applicant) filed an application wih the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking authority to negotiate for the placement of not more than $25,000,000 of first Mortgage Bonds, 450,000 shares of Common Stock, par value of $10 per share, and 80,000 shares of Cumulative Preferred Stock, $100 par value.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26887 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-481-000]

Transcontinental Gas Pipe Line Corp.; Application

September 24, 1982.

Take notice that on August 11, 1982, Tancscontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-481-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity to make an off-system sale of up to 200,000 dt equivalent of natural gas per day to Bridgeline Gas Distribution Company (Bridgeline) and to construct and operate pipeline taps and related facilities required to deliver such gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant maintains that a temporary surplus of gas has been caused by unexpected high rates of deliverability of offshore wells from which Applicant purchases gas and because of competition from alternate fuels. In order to reduce its substantial take-or-pay obligations Applicant proposes to make the off-system sale for a term of two years and to abandon such sale at the end of the two-year term.

Specifically, Applicant proposes to deliver gas for the account of Bridgeline at three points. Applicant states that it has a lateral (Lucy) which connects its Southeast Louisiana Gathering System (SELGS) with Texaco Inc.'s (Texaco) Paradis Gasoline Plant in St. Charles Parish, Louisiana (Paradis). Texaco currently sells and delivers up to 25,000 Mcf of natural gas per day from Paradis to Applicant. As part of the proposed off-system sale, instead of delivering such gas to Applicant, Texaco would deliver the gas to Riverway Gas Pipline

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was

Company (Riverway) on behalf of Applicant for the account of Bridgeline. Riverway then would redeliver the gas to Bridgeline. Up to 20,000 dt of natural gas per day would be delivered by Applicant to Riverway for the account of Bridgeline by reversing the flow in the Lucy lateral. An existing check valve would be removed at the interconnection of the SELGS and the Lucy lateral and Riverway would construct a pipeline which would connect with Applicant's facilities at Applicant's existing meter station in Paradis. Applicant would use the existing meter station to measure the gas to be sold at this delivery point but it would install bypass piping in the meter station yard in order to connect with Riverway's pipeline. The remainder of the gas subject to this application would be delivered to Riverway for the account of Bridgeline at a proposed interconnection between the SELGS and Riverway's existing line which crosses the SELGS in Ascension Parish, Louisiana. To accomplish such interconnection, Applicant would need to install two taps in the SELGS. Riverway would construct the necessary pipeline and meter station to complete the interconnection. The estimated cost of the proposed facilities is $108,115.

Applicant proposes that the price to be paid by Bridgeline for gas sold be set each month at the greater of the then current Section 102 rate of the Natural Gas Policy Act of 1978 or Applicant's then average cost of purchased gas included in its most recent Purchase Gas Adjustment filing. Applicant asserts that this price is necessary to enable it to compete in the current market and that none of its off-system sales purchasers are interested in sales priced at a rate equivalent to that charged under Applicant's principal jurisdictional rate schedule at an assumed 100 percent load factor, as the Commission has done in the past.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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 motion 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 motion 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. 82-26888 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-M

[Docket No. CP82-484-000]

Transwestern Pipeline Co.; Application

September 24, 1982.

Take notice that on August 13, 1982, Transwestern Pipeline Company (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP82-484-000 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 Texas Eastern Transmission Corporation (TETCO), and the construction and operation of certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that TETCO has agreed to purchase quantities of Canadian natural gas from Nortwest Pipeline Company (Northwest). The agreement provides for the sale by Northwest of up to 300,000 dt equivalent of natural gas per day on a firm basis and an additional 25,000 dt equivalent of natural gas per day subject to Northwest's overall system suppy being sufficient to meet Northwest's existing customers firm contract obligations. The term of the agreement is for a period continuing through October 31, 1989, and would be extended from year to year thereafter subject to Northwest's continuing ability to receive sufficient volumes of natural gas from Westcoast Tranmission Company, Ltd. To implement the purchase, Applicant and TETCO entered into a general partnership agreement under the name of Continental Divide Pipeline Company (Continental Divide). In order to effectuate receipt of said quantities of natural gas by TETCO, Applicant and TETCO have entered into a transportation agreement.

Specifically, Applicant proposes to transport for TETCO, on a firm basis, 162,000 dt equivalent of natural gas per day and such additional quantities in excess of 162,500 dt equivalent as Applicant in its sole discretion determines it is able to transport, less actual fuel usage. It is stated that Applicant would receive 162,500 dt equivalent of gas per day from Continental Divide at the proposed point of interconnection between Continental Divide and Applicant located at Applicant's compressor station No. 5 in McKinley County, New Mexcio, and transport and redeliver equal quantities of a firm basis, less the actual fuel usage of its compressors at the point of delivery, to Valero Transmission Company (Valero), for the account of TETCO, at a point of interconnection between the systems of Applicant and Valero in Pecos County, Texas. The agreement provides that, when requested, Applicant would endeavor to transport a quantity of gas in excess of the contract quantity but that the ability of Applicant to transport such excess gas would be determined exclusively by Applicant.

It is stated that the agreement further provides that the transportation service would be for a primary term of 15 years from the date of initial delivery and from year to year thereafter until terminated by either party by prior written notice of not less than 2 years. It is stated that Applicant would charge TETCO a monthly facility charge of $249,623.00 and a commodity charge of 6.48¢ per dt equivalent of gas delivered.

In order to effectuate the transportation, Applicant proposes to construct a new compressor station consisting of 2 compressors of up to 4,000 horsepower each, and a new metering and regulating station. It is stated that the facilities would be located at the point of interconnection between Applicant and Valero in Pecos County, Texas. Applicant asserts that the additional compression is necessary to effectuate the transfer of natural gas from its system to Valero and that it would not increase the capacity of Applicant's West Texas Lateral pipeline. It is stated that the maximum

capacity at the point of interconnection between Applicant and Valero would be approximately 300,000 Mcf of gas per day.

The total cost for the proposed facilities is estimated at $8,396,000 to be financed from funds on hand and/or from borrowings under Applicant's revolving credit agreements which may later be replaced with long-term financing.

Applicant submits that the proposed transportation service would provide TETCO with the most efficient and cost-effective method of receiving the quantities of firm gas supplies which TETCO has purchased from Northwest and that the construction of the proposed compression and metering facilities is necessary in order to effectuate Applicant's transportation service for TETCO.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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 motion 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 motion 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. 82-26889 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-811-000]

Upper Peninsula Power Co.; Filing

September 24, 1982.

Take notice that on September 20, 1982, Upper Peninsula Power Company (Upper Peninsula) tendered for filing Addendum B between Upper Peninsula and the Ontonagon County Rural Electrification Association dated September 16, 1982. Upper Peninsula states that the Federal Energy Regulatory Commission's designated rate schedule for this contract is FERC No. 15.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 13, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26890 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-487-000]

Williston Basin Interstate Pipeline Co. and Montana-Dakota Utilities Co.; Application

September 24, 1982.

Take notice that on August 16, 1982, Williston Basin Interstate Pipeline Company (Williston Basin), 400 North Fourth Street, Bismarck, North Dakota 58501, and Montana-Dakota Utilities Co. (MDU), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP82-487-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Williston Basin to acquire and operate certain natural gas transmission facilities by which it will transport gas in the states of North Dakota, South Dakota, Montana, and Wyoming, and provide various sales, exchange, storage, and transportation services and for permission and approval authorizing MDU to abandon those facilities and services for which Williston Basin seeks certificate authorization to acquire, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that MDU commenced operations as an electric utility in 1924. MDU indicates that it initially entered the natural gas business to supply boiler fuel to its electric generating plants. Over the years, however, MDU submits that it has developed an extensive interstate pipeline and distribution system that serves consumers in the states of North Dakota, South Dakota, Wyoming, and Montana.

MDU maintains that traditionally its investment in new electric facilities was greater than investment in new gas facilities; however, MDU asserts that gas plant additions have exceeded electric investment in six of the last ten years. Between the pipeline and distribution segments of the gas business, MDU claims that capital requirements for the pipeline segment are increasing more rapidly. The application shows distribution between pipeline and distribution investments for capital construction requirements as follows:

	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981
Pipeline	$4,789,000	$3,860,000	$3,161,000	$4,243,000	$6,536,000	$4,852,000	$5,291,000	$8,795,000	$13,167,000	$21,233,000
Distribution	4,386,000	3,059,000	3,186,000	3,082,000	3,769,000	2,576,000	2,876,000	4,475,000	5,478,000	5,607,000

MDU expects this trend of increased pipeline investment to continue. In addition, MDU claims that earnings for its gas operations kept pace with the earings on its electric operations until 1977, when earnings on the gas

operations became inadequate to allow MDU to earn a fair return on its gas investment.

MDU states that in order to attract the capital necessary to continue to construct new gas supply facilities, earnings on its gas operations would have to improve greatly. It is asserted that earnings have not been higher than 1.29 percent on equity in any of the past five years. MDU avers that its gas operations can no longer depend on earnings generated by the electric operations of its business to attract sufficient capital for future gas construction because of increased electric utility construction requirements.

It is maintained that since the existing corporate structure is unable to generate sufficient earnings to finance new pipeline investment, MDU intends to restructure its operations so that its jurisdictional interstate facilities fall within a corporate entity regulated by the Commission. MDU proposes that its local distribution operations be maintained as they currently exist and that all of its jurisdictional facilities, services, and sales be concentrated within a separate transmission company, Williston Basin.

Williston Basin proposes to acquire all of MDU's pipeline facilities, land rights, and existing gas supply, transportation and sales operations in the states of North Dakota, South Dakota, Montana, and Wyoming. Williston Basin states that it would continue all sales, exchange, storage, and transportation services currently rendered by MDU. In addition, Williston Basin seeks authorization to make sales-for-resale of natural gas to MDU. The sales and deliveries would be made at existing city gate, field line, main line, and farm tap delivery points. Williston Basin states that it would sell the gas to MDU under its proposed Rate Schedules G–1, G–2, I–1, and I–2 and that Rate Schedules G–1 and I–1 would be similar to MDU's Rate Schedules G–1 and I–1. Proposed Rate Schedules G–2 and I–2 would cover service east of Bismarck, North Dakota. Further it is stated that initial rates would be based on the cost of service, cost allocations, and rate design proposed by MDU in its currently pending rate case in Docket No. RP82–84. Applicants indicate that assuming an October 1, 1982, start-up date, the principal proposed rates, exclusive of surcharges, would be as follows:

Customer	Rate schedule	Rate (cents per 1,000 ft.³)
MDU, Wyoming Gas Co., Byron Gas Service.	G–1	333.869
MDU	G–2	365.617
Wyoming Gas Co., Cody Gas Co.	PR–1	333.869
MDU, Wyoming Gas Co	I–1	330.869
MDU	I–2	362.617
Frontier Gas Storage Co	X–4	231.494
Colorado Interstate Gas Co	X–5	[1] 421.481 [2] 400.275
MIGC, Inc	X–6	[3] 359.527 [4] 29.660

[1] With storage.
[2] Without storage.
[3] Sale.
[4] Transportation.

Applicants state that Williston Basin would acquire MDU upon receipt of authorization from the Commission and upon receipt of a ruling from the Internal Revenue Service that the proposed acquisition would not be a taxable event. The purchase price would reflect the net depreciated book value of the assets as of the date of closing, less certain liabilities, plus all transaction expenses. It is shown that if the closing date were October 1, 1982, the estimated purchase price would be approximately $120,000,000. The application indicates that Williston Basin would finance the acquisition by issuing to MDU a combination of its common and preferred stock and several purchase money mortgages, whose total value would equal the purchase price.

Applicants further propose that MDU be granted abandonment authorization, for all of its currently authorized jurisdictional services and facilities, concurrently with the authorization sought by Williston Basin.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the 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 motion 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 and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion 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. 82–26891 Filed 9–29–82; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of August 23 Through August 27, 1982

During the week of August 23 through August 27, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Remedial Orders

Savage Gas Company, 8/27/82, HRO–0007, HRD–0025

The Economic Regulatory Administration (ERA) filed a Motion for Leave to Withdraw a Proposed Remedial Order which the agency had issued to Savage Gas Company. The ERA argued that the motion should be granted because the PRO did not accurately reflect the agency's present position. Savage did not object. In these circumstances, the DOE determined that good cause existed for granting ERA's motion. Accordingly, the DOE granted ERA's Motion to Withdraw the PRO issued to Savage without prejudice to the issuance of a new PRO or other enforcement action.

Stanco Petroleum, Inc., 8/25/82, DRO–0021, Crude Oil

Stanco Petroleum, Inc. objected to a Proposed Remedial Order (PRO) which the Central Enforcement District of the Economic Regulatory Administration (ERA) issued to the firm on April 4, 1979. In the PRO, the ERA alleged that Stanco had violated DOE pricing regulations pertaining to first sales of crude oil by improperly certifying production from

four of its properties as stripper well crude oil. Stanco contended that the ERA had erred in its calculation of average daily production from the four properties by excluding certain producing wells in its determination of the numbers of wells on the properties. After considering Stanco's objections, the DOE affirmed the findings of the PRO with respect to three of the four properties. The PRO's allegations concerning the fourth property, however, were rescinded with respect to two of the three stripper well qualifying periods at issue. Important issues considered in this Decision include: (i) Whether Stanco's destruction of company records precluded its introducing related evidence, (ii) whether the DOE was compelled to rescind the PRO due to delay between the date on which an evidentiary hearing was held and the issuance of a final remedial order, and (iii) the type of showing required for a crude oil producer to controvert information contained in its reports to a state regulatory authority.

Request For Exception

C. R. Mullis Oil and Heating Co., Inc., 8/23/82, BEE–1641

C. R. Mullis Oil and Heating Co., Inc. filed an Application for Exception from the reporting requirements of Form EIA–9A, the "No. 2 Distillate Price Monitoring Report." The applicant alleged that compliance with the reporting requirements of the Form EIA–9A would cause it to experience a serious hardship and a gross inequity. In considering the request, the DOE found that the firm had demonstrated that the reporting requirements resulted in a gross inequity which would seriously impede Mullis' business operation in the absence of exception relief. Accordingly, C. R. Mullis Oil and Heating Co., Inc. was excused entirely from the requirement that it submit Form EIA–9A to the DOE.

Motions for Discovery

Walter J. Scott & Benjamin J. Agajanian, HRD–0070, HRH–0070; William J. Scott, HRD–0071, HRH–0071; Walter J. Scott, d.b.a. Scott Oil Co., 8/27/82, HRD–0072, HRH–0072

Walter J. Scott & Benjamin J. Agajanian, William J. Scott, and Walter J. Scott, d.b.a. Scott Oil Co. filed Motions for Discovery and Evidentiary Hearing in connection with Proposed Remedial Orders issued to the firms on June 4, 1982. In a consolidated Decision and Order issued to the firms on August 27, 1982, the DOE found that the Motions failed to meet the requirements set forth in 10 C.F.R. §§ 205.198 and 205.199. In regard to the discovery requests, the DOE found that the firms failed to set forth the reasons why the particular discovery was necessary to obtain relevant and material evidence, and explain why such discovery was necessary to obtain relevant and material evidence, and explain why such discovery would not unduly delay the proceedings. It was also determined that the firms' Motions for Evidentiary Hearing failed to identify which disputed issues of fact they sought to address in the hearings. Nor did they explain why the testimony of witnesses would be necessary or even relevant to the issues in dispute. In an attempt to obtain all the information necessary in order to resolve the issues involved in the underlying Proposed Remedial Orders, the Decision permits the firms to submit further documentary evidence in support of the contentions set forth in their Statements of Objections.

Refund Application

Pennzoil Company/System Fuels, Inc., 8/26/82, RF10–30

On March 10, 1982, the Office of Hearings and Appeals issued a Decision and Order implementing special refund procedures with respect to a $3 million fund obtained by the DOE through a consent order with Pennzoil Company. *See Office of Special Counsel (Pennzoil),* 9 DOE ¶ 82,545 (1982). The March 10 Decision stated that the DOE would accept applications for refund filed by purchasers of Pennzoil's covered products during the period March 6, 1973 through December 31, 1980. The August 26 Decision addresses the request for refund filed by System Fuels, Inc. (SFI) on behalf of its related four electric utility operating companies that are regulated by state utility regulatory agencies. In considering SFI's claim for refund, the DOE determined that the firm was eligible for a portion of the Pennzoil consent order funds and that the refund should be paid directly to its operating companies in proportion to the percentage of each operating company's share of fuel oil purchased from SFI. Accordingly, the DOE concluded that SFI's application be granted.

Tenneco Oil Co./Mid-Continent Systems, Inc., 8/23/82, RF7–70

Mid-Continent Systems, Inc. (MCS) filed an Application for Refund pursuant to 10 C.F.R. § 205.283 for a portion of the fund obtained by the DOE through a consent order entered into with the Tenneco Oil Company. MCS is an independent reseller-retailer of petroleum products that purchased motor gasoline and diesel fuel from Tenneco during the period covered by the consent order. In analyzing the MCS application, the DOE found that MCS had a great deal of discretion in determining how much product it purchased from Tenneco, because MCS had many suppliers in addition to Tenneco and because Tenneco only furnished a small proportion of MCS's total motor gasoline and diesel fuel supplies. The DOE thus determined that MCS should only be permitted refunds for purchases it made from Tenneco at prices above market average prices during months in which it banked costs. Accordingly, the DOE concluded that MCS was entitled to a refund of $4,190 plus .085804 percent of the accrued interest in the Tenneco escrow account.

Tenneco Oil Company/Midway Enterprises, Inc., 8/23/82, RF7–43

Midway Enterprises (Midway) filed an Application for Refund seeking a portion of a fund obtained by the DOE through a consent order entered into by the agency and the Tenneco Oil Company. In considering its application, the DOE found that Midway had not submitted the required information demonstrating that it maintained banks of unrecovered product costs during the period covered by the consent order. The DOE also found that Midway had not submitted any evidence to substantiate its claim for a refund based upon alleged allocation violations by Tenneco. However, the DOE found that Midway had satisfied the requirements set forth in the *Tenneco* Decision that would allow it to receive a refund at the threshold level of 600,000 gallons annually per covered product. Accordingly, Midway's Application for Refund was granted in part.

Application For Refund

Tenneco Oil Co./Research Fuels, Inc., 8/27/82, RF7–56

Research Fuels, Inc. filed an Application for Refund in which it sought a portion of the settlement fund obtained by the DOE through a consent order entered into by the agency and Tenneco Oil Company. In its Application, RFI stated that Tenneco failed to supply RFI with its motor gasoline allocation during 1979. RFI alleged that it had suffered considerable injury due to lost profits from the motor gasoline that it was unable to market and due to the closing of ten of RFI's outlets. The DOE determined that RFI's claim was meritorious but that the firm's calculations of its inury were somewhat excessive. After examining the equitable factors in the case, the DOE concluded that RFI should be allotted $193,509.31 from the settlement fund along with a portion of the interest that had accrued on the fund.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Ginsburg, Feldman, Weil, & Bress, HES–0035, HER–0035
Intercontinental Oil Co., BER–0109

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 111, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Dated: September 23, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 82–27001 Filed 9–29–82; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of August 30 Through September 3, 1982,

During the week of August 30 through September 3, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following

summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. There are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: September 23, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appeal

State of Maryland, 8/30/82, HEA-0005

The State of Maryland filed an Appeal from a decision issued by the Philadelphia Support Office of the DOE. In that decision, the DOE denied Maryland's request for authorization to use funds allocated to the State for energy conservation grants for local governments and public care institutions to defray administrative costs related to energy conservation programs for schools and hospitals. In considering the Appeal, the DOE found that Maryland did not claim, nor did it present arguments to support a claim, that the decision of the Philadelphia Support Office was erroneous in fact or law, or that it was arbitary or capricious. Accordingly, the Appeal was denied.

Request for Exception

Placid Refining Co., 8/30/82, BEE-1270

On July 3, 1980, Placid Refining Company filed with the Office of Hearings and Appeals an Application for Exception. In that Application, the firm requested that its small refiner bias entitlements for the period June 1979 through September 1979 be recalculated on a refinery-by-refinery basis, instead of a firm-wide basis. The firm stated that although the amended SRB provision, effective June 1, 1979, required the refinery-by-refinery calculation for SRB benefits, the ERA treated the firm's two refineries as one in calculating the firm's SRB benefits prior to October 1979, because the capacity certification for one of the firm's refineries was not completed. The OHA found that prior to the amendment of the SRB provision, Placid had filed an Application for Exception, in which it requested a separate calculation of the SRB benefits for its newly built refinery. Placid subsequently withdrew that request only because the firm believed that the ERA's adoption of the refinery-by-refinery calculation would have alleviated the adverse impact from which the firm sought relief, and therefore made its request moot. The OHA reasoned that since the new calculation method was not applied to Placid before its newly constructed refinery was certified, the regulatory effect was not removed, and Placid's pevious exception relief should be reconsidered. The OHA concluded that the reduction in Placid's SRB benefits due to the use of the firm-wide calculation method represented a gross inequity experienced by Placid. The OHA therefore granted the firm's exception request.

Motions for Discovery

Gary Energy Corporation, 9/3/82, BRD-1344; BRH-1344

Gary Energy Corporation filed Motions for Discovery and Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order issued to the firm on November 12, 1980. In its Motions, the firm sought the production of certain DOE documents and the presentation of oral testimony of certain Gary employees and present and former DOE officials. In considering these requests, the DOE rejected Gary's arguments (1) that discovery was necessary to explore the DOE's contemporaneous constructions of regulations governing the pricing of condensate; (2) that discovery was warranted to verify Gary's claim that it relied upon erroneous advice of DOE employees; and (3) that an evidentiary hearing was warranted to establish the feasibility of allocating Gary's condensate production to the individual leases from which it was derived. On the basis of these considerations, Gary's Motions for Discovery and Evidentiary Hearing were denied.

Gulf Oil Corporation, 8/30/82, HRD-0050

Gulf Oil Corporation filed a Motion to compel Answers to Deferred Interrogatories in connection with its objections to a Proposed Remedial Order (PRO) issued to it by the Office of Special Consel for Compliance (OSC) on May 1, 1979. In that motion, Gulf sought to compel OSC to respond to discovery requests Gulf had filed on August 7, 1979, the consideration of which had been deferred pursuant to stipulations between the parties. The great majority of the deferred interrogatories sought further contemporaneous construction or administrative record discovery of the type Gulf was granted in *Atlantic Richfield Co.*, 5 DOE ¶82,521 (*Acro I*). The DOE concluded that these interrogatories should be denied because they either sought discovery denied in *Arco I*, or to the extent they sought discovery granted in *Arco I*, OSC had already produced responsive documents to Gulf or had claimed them to be privileged and interrogatory-specific responses were not required. A second category of deferred interrogatories asked OSC to identify agency personnel who drafted, edited, and approved certain portions of the regulations and rulings pertinent to the Gulf PRO proceeding. These requests were denied on the grounds they sought irrelevant information. A third category of deferred interrogatories sought information on matters not discussed in the *Arco I* decision. The interrogatories in this category which were determined to seek relevant information were granted. The final group of deferred interrogatories were a series of interrogatories OSC had agreed to answer, to which OSC was ordered to respond by a specific date. Accordingly, the Gulf motion was granted in part.

Keystone Fuel Oil Company, 9/2/82, BRD-1166; BRH-1166

Keystone Fuel Oil Company filed a Motion for Discovery and a Motion for Evidentiary Hearing in conjunction with an enforcement proceeding pending against the firm involving alleged overcharges in the sale of No. 2 fuel oil. In its Motion for Discovery, the firm sought information related to (1) prior audits of the firm conducted by predecessor agenices of the DOE; (2) investigations conducted by those agencies (3) congressional hearings wherein legislators allegedly pressured DOE officials into bringing the enforcement proceeding against the firm; (4) the ERA's modification of the PRO to effect a substitution of the declarant "primarily knowledgeable" about the facts of the case; and (5) the ERA's use of particular computer-printed material in calculating the firm's May 15, 1973 selling price. In its Motion for Evidentiary Hearing, Keystone asserted that a hearing should be held with regard to (1) the audit performed by the ERA and past agencies; (2) the facts surrounding the barge-lot sale of No. 2 fuel oil to customers that Keystone claims should be treated as ultimate consumers which form a separate class of purchaser pursuant to 6 C.F.R § 150.361(a)(2) and 10 C.F.R. § 212.111(a)(2); and (3) the firm's contentions of bias and harassment on the part of agency officials. The DOE granted limited discovery with regard to the calculation of the firm's May 15, 1973 cost of product in inventory but denied the remaining discovery requests, predominantly because of lack of relevance. The requests for an evidentiary hearing were also denied in some instances because of lack of relevance but also in large part because of the firm's failure to specify alternative findings pursuant to 10 C.F.R. § 205.199(b).

Interlocutory Order

Crown Central Petroleum Corporation, 9/2/82, HRZ-0077

Crown Central Petroleum Corporation (Crown) filed a Motion to Compel Discovery and the Office of Special Counsel for Compliance (OSC) filed a Motion in Limine with the Office of Hearings and Appeals. Both motions related to Crown's objections to a Proposed Remedial Order OSC issued to the firm on August 31, 1978.

In its Motion to Compel, Crown contended that OSC had failed to comply with the discovery order in *Crown Central Petroleum Corp.*, 9 DOE ¶ 84,020 (1982). The DOE determined that OSC had failed to provide a complete response to one of Crown's interrogatories that OSC had been ordered to answer, but that its response was not otherwise defective. Accordingly, the Crown motion was granted in part.

In its Motion in Limine, OSC requested issuance of an order striking from the record each reference in Crown's pleading to consent orders between the DOE and other firms and precluding Crown from making any further references to such consent orders. The DOE determined that OSC would not be prejudiced by the retention of material in the administrative record dealing with consent

orders. Accordingly, the OSC motion was denied.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Brown, George R. DRO–0266
Johnny Paxton, HFA–0077
Simon Oil Co., BRO–1429.

[FR Doc. 82-27000 Filed 9-29-82; 8:45 am]
BILLING CODE 6450-01-M

Southwestern Power Administration

Proposed System Power Rates; Opportunities for Public Review and Comment

AGENCY: Southwestern Power Administration (SWPA), DOE.

ACTION: Notice of Proposed System Power Rates and Opportunities for Public Review and Comment.

SUMMARY: The Administrator, SWPA, has made a current power repayment study and a revised power repayment study showing the need for a $24,734,000 increase in annual revenues to meet cost recovery criteria for the integrated system projects. He has also developed proposed system rate schedules, supported by a rate design study, to recover the required revenues. The proposed rates would increase annual revenues 37.9 percent, from $65,204,600 to $89,938,600. Opportunities will be presented for the customers and other interested persons to receive copies of the studies, to participate in a public information forum and a public comment forum, and to submit written comments. Following review of the oral and written comments and other information received, the Assistant Secretary for Conservation and Renewable Energy will announce a decision on the proposed rates and transmit the rate studies in support of the proposed rates to the Federal Energy Regulatory Commission (FERC) for final confirmation and approval. The FERC will allow the public an opportunity to comment on the proposed rates before making a final decision.

DATES: The Public Information Forum will be held October 26, 1982, in Tulsa, Oklahoma. The Public Comment Forum will be held December 1, 1982, in Tulsa, Oklahoma. Written comments on the proposed rates are due on or before December 29, 1982.

ADDRESSES: Five copies of the written comments should be submitted to the Administrator, Southwestern Power Administration, U.S. Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101. Five copies should also be submitted to the Assistant Secretary for Conservation and Renewable Energy, U.S. Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. The public forums will be at 9:30 a.m., in the Aaronson Auditorium, City County Library, 400 Civic Center, Tulsa, Oklahoma.

FOR FURTHER INFORMATION CONTACT:

Mr. Walter M. Bowers, Chief, Division of Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101, (918) 581–7529.

Mr. John J. DiNucci, Office of Power Marketing Coordination, Conservation and Renewable Energy, Department of Energy, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 633–8380.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy was created by an Act of the U.S. Congress, Department of Energy Organization Act, Pub. L. 95–91, dated August 4, 1977, and SWPA's power marketing activities were transferred from the Department of the Interior to the Department of Energy, effective October 1, 1977.

SWPA markets power from 22 multiple-purpose reservior projects with power facilities constructed and operated by the U.S. Corps of Engineers. By 1984, one additional project presently under construction (Clarence Cannon) will be completed, bringing the total to 23 projects with 2.1 million kilowatts of power for which SWPA will have marketing responsibility. These projects are located in the States of Arkansas, Missouri, Oklahoma, and Texas. SWPA's marketing area includes these States plus Kansas and Louisiana.

One project (Sam Rayburn) is isolated hydraulically and electrically from SWPA's transmission system and is marketed under a contract through which the customer purchases the entire power output of the project at the dam. A separate power repayment study is prepared for the project which has a special rate that does not affect this proposal. The 22 projects to which the proposed rate schedules apply are interconnected through SWPA's transmission system and exchange agreements with other utilities.

Following departmental guidelines, the Administrator, SWPA, prepared a current power repayment study using the existing rates for the intergrated system projects. This study shows that the legal requirement to repay the power investment with interest is not being met. A revised power repayment study was then made which shows that additional annual revenues of $24,734,000 (a 37.9 percent increase) are needed. A rate design study has also been completed which allocates the revenue requirement to the various system rate schedules for recovery. Copies of the power repayment studies and rate design study will be mailed to SWPA's customers and others who have expressed an interest. The proposed increase would change annual revenues produced by the integrated system projects from $65,204,600 to $89,938,600, and satisfy the present financial criteria for repayment of the projects within the required number of years. Below is a comparison of the existing rates and proposed rates:

BILLING CODE 6450-01-M

Rate Schedule P-3

	Existing	Proposed	
		Before Cannon	After Cannon
Capacity: @ 138-161 kV	$1.40/kW/mo.	$2.18/kW/mo.	$2.22/kW/mo.
@ 69 kV	+ .20 kW/mo.	+ .20/kW/mo.	+ .20/kW/mo.
@ Load Center or less than 69 kV	+ .55/kW/mo.	+ .70/kW/mo.	+ .70/kW/mo.
Energy:	$.0035 for first 1200 kWh/kW/yr. $.007 for kWh in excess of first 1200 kWh/kW/yr.	All energy $.0035/kWh + Actual purchased energy costs recovered directly from customers. The determination of each customer's share of such costs shall be made on a proportionate basis weighted in accordance with the number of kWh used per kW and recognizing higher load factor loads are responsible for a greater share of the need for purchased energy.	
	$.0035/kWh of Supplemental Peaking Energy	$.0035/kWh of Supplemental Peaking Energy	

Rate Schedule F-2

	Existing	Proposed	
		Before Cannon	After Cannon
Capacity: @ 138-161 kV	$1.40/kW/mo.	$2.18/kW/mo.	$2.22/kW/mo.
@ 69 kV	+ .20/kW/mo.	+ .20/kW/mo.	+ .20/kW/mo.
@ Load Center or less than 69 kV	+ .55/kW/mo.	+ .70/kW/mo.	+ .70/kW/mo.
Energy:	$.0035 for first 100 kWh/kW/mo. of Firm Billing Demand $.007 for next 340 kWh/kW/mo. of Firm Billing Demand $.014 for energy in excess of first 440 kWh/kW/mo. of Firm Billing Demand	All energy $.0035/kWh + Actual purchased energy costs recovered directly from customers. The determination of each customer's share of such costs shall be made on a proportionate basis weighted in accordance with the number of kWh used per kW and recognizing higher load factor loads are responsible for a greater share of the need for purchased energy.	

Rate Schedule F-3

	Existing	Proposed	
		Before Cannon	After Cannon
Capacity:	$1.95/kW/mo. of Billing Demand	$2.88/kW/mo.	$2.92/kW/mo.
Energy:	$.0035 per kWh for federally-generated firm energy + Actual cost of thermal-generated energy purchased from the company specifically for the customer.	All federally-generated firm energy $.0035/kWh + Actual cost of thermal-generated energy purchased from the company specifically for the customer + Actual purchased energy costs to support the federally-generated energy recovered directly from customers. The determination of each customer's share of such costs shall be made on a proportionate basis weighted in accordance with the number of kWh used per kW and recognizing higher load factor loads are responsible for a greater share of the need for purchased energy.	

Rate Schedule EE-2

	Existing	Proposed
Energy:	$.003/kWh	$.0035/kWh

Rate Schedule IC-2

	Existing	Proposed
Capacity:	$.05/kW/day of Interruptible Billing Demand	$.075/kW/day of Interruptible Billing Demand
Energy:	$.0035/kWh	$.0035/kWh

BILLING CODE 6450-01-C

A Public Information Forum will be held October 26, 1982, in the Aaronson Auditorium, City County Library, 400 Civic Center, Tulsa, Oklahoma, at 9:30 a.m., to explain to the public the proposed rates and supporting studies. Questions may be submitted from interested persons. The forum will be conducted by a chairman who will be responsible for orderly forum procedure. Questions raised at the forum concerning the rates and studies will be answered, to the extent possible, at the forum. Questions not answered at the forum will be answered in writing, except that questions that involve voluminous data contained in SWPA's records may best be answered by consultation and review of pertinent records at SWPA's offices.

A Public Comment Forum will be held December 1, 1982, at the same time and location established for the Public Information Forum. At the Public Comment Forum, interested persons may submit written comments or make oral presentations of their views and comments. The forum will be conducted by a chairman who will be responsible for orderly procedure. SWPA's representatives will be present, and they and the chairman may ask questions of the speakers. Persons interested in speaking should submit a request to the Administrator, SWPA, at least three (3) days before the forum so that a list of speakers can be developed. The chairman may allow others to speak if time permits.

A transcript of each forum will be made. Copies of the transcripts may be obtained from the transcribing service. Copies of all documents introduced will be available from SWPA upon request for a fee. Written comments on the proposed rates are due on or before December 29, 1982. Five copies of the written comments should be submitted to the Administrator, Southwestern Power Administration, U.S. Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101. Five copies should also be submitted to the Assistant Secretary for Conservation and Renewable Energy, U.S. Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Following review of the oral and written comments and the information gathered in the course of the proceedings, the Assistant Secretary for Conservation and Renewable Energy will announce a decision on the proposed rates and transmit the rate studies in support of the proposed rates to the FERC for final confirmation and approval. The FERC will allow the public an opportunity to make written comments on the proposal before making a final decision.

Issued in Tulsa, Oklahoma, September 24, 1982.

Richard B. Risk, Jr.,

Administrator.

[FR Doc. 82-27003 Filed 9-29-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 140017; TSH-FRL 2218-8]

American Management Systems, Inc. and Versar, Inc.; Transfer of Data to Contractor and Subcontractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has contracted with American Management Systems, Inc. (AMS), (primary contractor) and Versar, Inc., (subcontractor) to review and analyze information reported under section 8(b) of the Toxic Substances Control Act (TSCA) for purposes of predicting potential exposures to toxic substances. Some of the materials which AMS and Versar, Inc., will review will contain confidential business information.

DATE: The transfer of data submitted under the Act and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the **Federal Register.**

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).

SUPPLEMENTARY INFORMATION: EPA will be evaluating the potential and magnitude of possible exposures to toxic substances. To accomplish this, EPA will require the assistance of outside experts. It has selected American Management Systems, Inc. (AMS), of Arlington, Virginia and Versar, Inc. (Versar), of Springfield, Virginia to perform analyses of the information which may be helpful to EPA in this evaluation. (Contract No. 68-01-5146).

AMS and Versar will examine the information obtained from the Inventory of Chemical Substances (section 8(b) of TSCA) to identify possible exposure situations. Pursuant to 40 CFR 2.306(j), EPA has determined that it will need to disclose confidential business information to AMS and Versar. If any information is claimed to be confidential, reports prepared by AMS and Versar dealing with this confidential business information will be treated as confidential. After evaluating the information obtained, AMS and Versar will return the information and any reports they prepare to EPA.

Under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information Security Manual," AMS and Versar will be authorized to have access to this information. EPA has approved Versar's security plan and has conducted the required inspection of Versar facilities and found them to be in compliance for the control and security of TSCA confidential business information. AMS will have access to confidential business information only at EPA facilities.

Since AMS and Versar will review information claimed to be confidential, EPA is publishing this notice to inform all submitters of information listed under section 8(b) of TSCA that this contractor and subcontractor will have access to confidential business information from EPA.

Pursuant to the EPA manual "Contractor Requirements for the Control and Security of TSCA Confidential Business Information," AMS and Versar are legally required to safeguard this information form any unauthorized disclosure. AMS and Versar personnel will be required to sign a nondisclosure agreement and be briefed on appropriate security procedures before they are permitted access to such information.

Dated: September 8, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-26958 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59102, TSH-FRL 2218-6]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which

must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of four applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: October 15, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–59102]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

TME 82–51

Close of Review Period. November 3, 1982.

Importer. Confidential.

Chemical. (G) Substituted alkyl cyclic amine.

Use/Import. (G) Plastic additive. Import range: 1 yr-4,000 lbs.

Toxicity Data. Acute oral: >5,000 mg/kg.

Exposure. Manufacture and processing: dermal and inhalation, 10–12 workers; use: maximum of 18 workers could have dermal or inhalation exposure.

Environmental Release/Disposal. No data submitted.

TME 82–52

Close of Review Period. November 4, 1982.

Manufacturer. Confidential.

Chemical. (G) Polyester from an alkanedioic acid, carbomonocyclic anhydride and substituted alkane diols.

Use/Production. (G) Open use that will release more than 50 but less than 500 kg to the environment. Prod. range: 1 yr: 1,000–4,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and eye, a total of 27 workers, up to 6 hrs/da, up to 3 da/yr; processing: a maximum of 15 workers may have dermal and eye irritation, up to 4 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–100 kg/yr to land. Disposal by incineration and approved landfill.

TME 82–53

Close of Review Period. November 4, 1982.

Manufacturer. Confidential.

Chemcial. (G) Halogenated ketone.

Use/Production. (G) Ingredient for composite product. Prod. range: Confidential.

Toxicity Data. Acute oral: Low toxicity; Eye irritation: Mild to slight irritant; Ames Test: Not mutagenic; Skin sensitization: Slight irritation.

Exposure. Manufacture and processing; dermal and inhalation.

Environmental Release/Disposal. Release to air. Disposal by landfill.

TME 82–54

Close of Review Period. November 4, 1982.

Manufacturer. Confidential.

Chemical. (G) Halogenated hydrocarbon.

Use/Production. (G) Ingredient for composite product. Prod. range: Confidential.

Toxicity Data. Acute oral: Low toxicity; Eye irritation: Persistent irritant; Ames Test: Not mutagenic; Skin sensitization: Not an irritant.

Exposure. Manufacture and processing: dermal and inhalation.

Environmental Release/Disposal. Release to air. Disposal by landfill.

Dated: September 23, 1982.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 82–26963 Filed 9–29–82; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51433; TSH–FRL 2218–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of 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 fifteen PMNs and provides a summary of each.

DATES: CLOSE OF REVIEW PERIOD:

PMN 82–675, 82–676, 82–677, & 82–678—December 15, 1982

PMN 82–679 & 82–680—December 18, 1982

PMN 82–681, 82–682, 82–683, 82–684, 82–685, 82–686, 82–687 & 82–688—December 19, 1982

PMN 82–689—December 20, 1982

Written comments by:

PMN 82–675, 82–676, 82–677 & 82–678—November 15, 1982

PMN 82–679 & 82–680—November 18, 1982

PMN 82–681, 82–682, 82–683, 82–684, 82–685, 82–686, 82–687 & 82–688—November 19, 1982

PMN 82–689—November 20, 1982

ADDRESS: Written comments, identified by the document control number "[OPTS–51433]" 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, 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 notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

PMN 82–675

Manufacturer. Uniroyal, Inc.

Chemical. (G) Isocyanate terminated polyester-ether polyurethane prepolymer.

Use/Production. (S) Molded goods applications. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 8 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 82-676

Importer. Confidential.

Chemical. (G) Heterocyclic, aromatic methane.

Use/Import. (S) Pigment additive. Import range: 150–5,000 kg/yr.

Toxicity Data. Acute oral: >5 g/kg; Acute dermal: 700–2,000 mg/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant.

Exposure. Processing: dermal and inhalation.

Environmental Release/Disposal. No data submitted.

PMN 82-677

Importer. Confidential.

Chemical. (G) Chromium complex of a substituted phenolazophenylpyrazolone.

Use/Import. (S) Leather and paper dye. Import range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Skin irritation: Non-irritant; Eye irritation: Moderate irritant.

Exposure. Processing, use and disposal: dermal, a total of 6 workers, up to 2 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to water. Disposal by publicly owned treatment works (POTW), incineration and approval landfill.

PMN 82-678

Importer. Confidential

Chemical. (G) Chlorinated aromatic azo anthraquinone pigment.

Use/Import. (S) Pigment for coatings. Import range: 2,400–64,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal; >2,000 mg/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant; Inhalation LC_{50}: >21.2 mg/1; Ames Test: Non-mutagenic.

Exposure. Processing and use: dermal and inhalation.

Environmental Release/Disposal. No data submitted.

PMN 82-679

Importer. Confidential.

Chemical. (G) Chlorinated aromatic azo pigment.

Use/Import. (S) Pigment for coatings. Import range: 2,400–64,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant; Ames Test: Non-mutagenic.

Exposure. Processing and use: dermal and inhalation.

Environmental Release/Disposal. No data submitted.

PMN 82-680

Importer. Confidential.

Chemical. (S) 2-propenoic acid, 2-hydroxyethyl ester, polymer with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, -hydro-w-hydroxypoly(oxy-1,2-ethanediyl), 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethycyclohexane and 2 oxepanone.

Use/Import. (G) Ingredient in coating formulations. Prod. range: Confidential.

Toxicity Data. Skin irritation: Severe irritant.

Exposure. Manufacture and processing: dermal, a total of 4 workers, up to 12 hrs/batch.

Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 82-681

Importer. Confidential.

Chemical. (G) Chromium complex of a sulfonaphthylazophenylpyrazolone.

Use/Import. (S) Industrial dye for leather and paper. Import range: Confidential.

Toxicity Data. Skin irritation: Non-irritant; Eye irritation: Moderate irritant; Biodegradation (Static test, metric method): 50–100%.

Exposure. Processing, use and disposal: dermal, a total of 6 workers, up to 2 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Up to 50 kg/yr maximum released to water 2 hrs/da, 100 da/yr. Disposal by POTW, incineration and approved landfill.

PMN 82-682

Importer. Confidential.

Chemical. (G) Polyester from an alkanedioic acid, carbomonocyclic anhydride and substituted alkane diols.

Use/Import. (G) Open use. Prod. range: 10,000–50,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal, inhalation and eye, a total of 139 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Less than 10 kg/hr released to air and water with more than 10,000 kg/yr to land. Disposal by incineration.

PMN 82-683

Manufacturer. Confidential.

Chemical. (G) Halogenated ketone.

Use/Production. (G) Ingredient for composite product. Prod. range: Confidential.

Toxicity Data. Acute oral: 3,400 mg/kg; Skin irritation: Slight irritant; Eye irritation: Slight irritant; Ames Test: Non-mutagenic.

Exposure. Manufacture and processing: dermal and inhalation.

Environmental Release/Disposal. Release to air. Disposal by approved landfill.

PMN 82-684

Manufacturer. Confidential.

Chemical. (G) Halogenate hydrocarbon.

Use/Production. (G) Ingredient for composite product. Prod. range: Confidential.

Toxicity Data. Acute oral: 7,500 mg/kg; Skin irritation: Non-irritant; Eye irritation: Moderate irritant; Ames Test: Non-mutagenic.

Exposure. Manufacture: dermal and inhalation.

Environmental Release/Disposal. Release to air. Disposal by approved landfill.

PMN 82-685

Manufacturer. Ansul Specialty.

Chemical. (G) Diethylene glycol ether.

Use/Production. (S) Inert solvent for chemical reactions. Prod. range: Confidential.

Toxicity Data. Acute oral: 5,000 mg/kg; Acute dermal: 7.07 ml/kg; Skin irritation: Not a primary irritant; Eye irritation: Not a primary irritant; Ames Test: Non-mutagenic.

Exposure. Manufacture: dermal and inhalation, a total of 11 workers, up to 4 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 100–1,000 kg/yr released to water and land. Disposal by POTW.

PMN 82-686

Manufacturer. Confidential.

Chemical. (G) Disubstituted-1-naphthol.

Use/Production. (G) Minor constituent in an article for commercial and consumer use. Prod. range: 100–200 kg/yr.

Toxicity Data. Acute oral: >3,000 mg/kg; Acute dermal: & 1,000 mg/kg; Skin irritation: Slight irritant; Eye irritation: Non-irritant; Skin sensitization: Moderate; Acute aquatic effects LC_{50}: >0.9 mg/L; Secondary waste treatment compatibility: >0.125 mg/L.

Exposure. Manufacture and processing: dermal and inhalation, a total of 10 workers, up to 2 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. No release. Disposal by biological treatment system, incineration and landfill.

PMN 82-687

Manufacturer. The Kendall Company.

Chemical. (G) Methacrylate copolymer.

Use/Production. (S) General purpose adhesive tapes. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and inhalation, a total of 11 workers, up to 8 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. No release.

PMN 82-688

Manufacturer. The Kendall Company.

Chemical. (G) Acrylate copolymer solution.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Skin irritation: Slight irritant.

Exposure. Manufacture, processing and use: a total of 11 workers, up to 8 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. No release.

PMN 82-689

Manufacturer. Exxon Chemical Americas.

Chemical. (G) Alkyl amino ethoxy ethanol.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 1.7130 g/kg; Skin irritation: Severe irritant; Eye irritation: Severe irritant; Ames Test: Non-mutagenic

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: September 23, 1982.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 82-26962 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

[SWH-FRL 2216-2]

Hazardous Waste Management System; Infectious Waste Management

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of information manual.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability of an information manual entitled "Draft Manual for Infectious Waste Management." This manual identifies those infectious wastes which the Agency believes require special management, and presents a number of environmentally acceptable techniques for packaging, transport, treatment, storage, and disposal of infectious waste. EPA is publishing the manual because the Agency has received many requests for guidance on infectious waste management over the past several years, and because the Agency has sought and accumulated much information on infectious waste management since publishing a proposed rule in the **Federal Register** on December 18, 1978. EPA welcomes comments on the usefulness of this document, and any suggestions for changes or revisions.

DATES: The Agency will accept public comment on the information manual until April 6, 1982.

ADDRESSES: The information manual, "Draft Manual for Infectious Waste Management," GPO stock number 055-000-00273-1, is available from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783-3238. The manual is immediately available for reading in all EPA libraries and in the EPA docket at the address listed below.

Comments on the manual are welcome and may be mailed to the Docket Clerk, (Docket No. 3001/3004, Infectious Waste Management), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Comments received by EPA may be inspected in Room S-269, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., from 9:00 a.m. to 4:00 p.m. Monday through Friday, except on legal holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, at (800) 424-9346 (toll free), or at (202) 382-3000. For technical information contact Claire Welty at (202) 755-9187 or (202) 382-4806.

Dated: September 17, 1982.

Rita M. Lavelle,

Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 82-26964 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-53041; TSH-FRL 2217-5]

Premanufacture Notices; Monthly Status Report for August 1982

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for August 1982.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E-106 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "[OPTS-53041]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-208, 401 M Street, SW., Washington, DC 20460, (202-382-3746).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during August; (b) PMNs received previously and still under review at the end of August; (c) PMNs for which the notice review period has ended during August; (d) chemical substances for which EPA has received a notice of commencement to manufacture during August; and (e) PMNs for which the review period has been suspended. Therefore, the August 1982 PMN Status Report is being published.

Dated: September 22, 1982.

V. Paul Fuschini,

Acting Director, Management Support Division.

Premanufacture Notices Monthly Status Report, August 1982

I. 110 Premanufacture Notices Received During the Month

PMN No.	Identity and generic name	FR citation	Expiration date
82-156	Methyl-{trifluoromethyl-poly-(oxy-difluoromethylene)-poly-[oxy-2-(trifluoromethyl)-trifluoroethylene]oxy}difluoromethyl carboxylate.	47 FR 39241 (9/7/82)	Nov. 21, 1982.
82-157	Trifluoromethyl-poly-(oxydifluoro-methylene)-poly-[oxy-2-(trifluoromethyl)-trifluoro-ethylene]oxy-difluoromethyl carboxylic acid.	47 FR 39241 (9/7/82)	Do.

I. 110 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-158	2-{trifluoromethyl-poly-(oxy-difluoro-methylene)-poly-[oxy-2-(trifluoromethyl)-tri-fluoro-ethylene]oxy}2,2 difluoroethanol.	47 FR 39241 (9/7/82)	Do.
82-159	*Aryl*-[*aryl*-oxycarbonyl difluoromethyl-poly-(oxy-difluoromethylene)-poly-(oxydifluoromethylene)-poly-(oxytetrafluoro ethylene) oxy]-difluoro-methyl carboxylate.	47 FR 39242 (9/7/82)	Do.
82-160	Methyl[methyloxycarbonyl difluoromethyl-poly-(oxydifluoromethylene)-poly-(oxy tetrafluoro ethylene)oxy]-difluoromethyl carboxylate.	47 FR 39242 (9/7/82)	Do.
82-161	2-(cyano difluoromethyl-poly-(oxydifluoro-methylene)-poly-(oxytetrafluoroethylene)-oxy] 2,2-difluoroacetonitrile.	47 FR 39242 (9/7/82)	Do.
82-162	2-[2,2-difluorohydroxyethyl-poly-(oxy-difluoro-methylene)-poly-(oxy trifluoroethylene) oxy]-2, 2-di-fluoroethanol.	47 FR 39242 (9/7/82)	Do.
82-163	2-[2, 2-difluoroaminoethyl-poly-(oxydifluoro-methylene)-poly-(oxytetrafluoroethylene)oxy] 2,2-di-fluoro-ethylamine.	47 FR 39242 (9/7/82)	Do.
82-164	2-{1-[N-m-isocyanato-O-(p)-tolyl)carbamyl] 2,2-difluoroethyl-poly-(oxydifluoroethylene)-poly-tetra-fluoro-ethylene)oxy}2,2-difluoroethyl-N-(m-isocyanato-o-(p)-tolyl)-carbamate.	47 FR 39242 (9/7/82)	Do.
82-165	1[isocyanato-2,2-difluoroethyl-poly-oxydifluoro-methylene)-poly-(oxytetrafluoroethylene)oxy]-2,2-difluoroethyl isocyanate.	47 FR 39242 (9/7/82)	Do.
82-538	Generic name: Modified polymer of styrene and substituted alkyl methacrylates	47 FR 35333 (8/13/82)	Oct. 31, 1982.
82-539	Generic name: Terephthalate polyester transe-sterification product with dialkylene glycols and glycerine.	47 FR 35333 (8/13/82)	Do.
82-540	Polymer of butyl 2-methyl-2-propenoate, ethenyl benzene, N-[(2-methylproproxy)methyl]-2-propen-amide.	47 FR 35333 (8/13/82)	Do.
82-541	Generic name: Fumarated rosin ester	47 FR 35333 (8/13/82)	Nov. 1, 1982.
82-542	Generic name: Citric acid ester	47 FR 35333 (8/13/82)	Do.
82-543	Generic name: Maleic acid ester	47 FR 35333 (8/13/82)	Do.
82-544	Generic name: Benzoic acid ester	47 FR 35333 (8/13/82)	Do.
82-545	Polymer of hexane, 1,6-diisocyanato-, hopolymer, 2-butanone, oxime	47 FR 35333 (8/13/82)	Do.
82-546	Void		Do.
82-547	Generic name: Modified polymer of styrene and substituted alkyl methacrylates	47 FR 35333 (8/13/82)	Do.
82-548	Generic name: Organometallic coupling agent	47 FR 35333 (8/13/82)	Do.
82-549	Void		
82-550	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35333 (8/13/82)	Do.
82-551	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-552	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-553	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-554	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-555	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-556	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-557	Generic name: Acetamidodimethylsiloxane	47 FR 35334 (8/13/82)	Do.
82-558	Generic name: Acetamidodimethylsiloxane	47 FR 35334 (8/13/82)	Nov. 2, 1982.
82-559	Generic name: Disubstituted benzene	47 FR 35334 (8/13/82)	Do.
82-560	Generic name: Polymer of the homopolymer of hexane, 1,6-diisocyanato-, substituted alkyl alkanoates and a benzene derivative.	47 FR 35334 (8/13/82)	Do.
82-561	Generic name: Substituted unsaturated polycyclic alcohol	47 FR 35334 (8/13/82)	Do.
82-562	Generic name: 1-Naphthalenesulfonic acid, ((((triazin)amino)disulfo)azo)-, trisodium salt	47 FR 36469 (8/20/82)	Nov. 3, 1982
82-563	Ethyllithium	47 FR 36469 (8/20/82)	Nov. 7, 1982.
82-564	Generic name: Aliphatic polyol oligocrylate oligopropionate	47 FR 36469 (8/20/82)	Do.
82-565	Generic name: Alkenyl alkanoate ester	47 FR 36469 (8/20/82)	Nov. 8, 1982.
82-566	Generic name: Heteromonocycle, substituted	47 FR 36469 (8/20/82)	Nov. 9, 1982.
82-567	Generic name: Heteromonocycle, substituted	47 FR 36469 (8/20/82)	Do.
82-568	Generic name: Chromophore substituted poly(oxy-alkylene)	47 FR 36469 (8/20/82)	Do.
82-569	Generic name: Epoxidized hydroxystearic acid	47 FR 36469 (8/20/82)	Do.
82-570	Generic name: Amino acid modified polyester	47 FR 37954 (8/27/82)	Nov. 10, 1982.
82-571	Generic name: Orthophthalic anhydride modified unsaturated polyester resin	47 FR 37954 (8/27/82)	Nov. 13, 1982.
82-572	Generic name: Organophosphorous compound	47 FR 37954 (8/27/82)	Do.
82-573	Generic name: Pentasubstituted pentanamide salt	47 FR 37954 (8/27/82)	Do.
82-574	Generic name: Glycol ester of fatty acids	47 FR 37954 (8/27/82)	Nov.14, 1982.
82-575	Void		
82-576	Generic name: Unsaturated polyester	47 FR 37954 (8/27/82)	Do.
82-577	Generic name: Unsaturated polyester	47 FR 37954 (8/27/82)	Do.
82-578	Generic name: Unsaturated polyester	47 FR 37954 (8/27/82)	Do.
82-579	Generic name: Unsaturated polyester	47 FR 37954 (8/27/82)	Do.
82-580	Generic name: Salt of sulfosuccinic diester	47 FR 37954 (8/27/82)	Do.
82-581	Generic name: N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate	47 FR 37954 (8/27/82)	Do.
82-582	Generic name: N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate	47 FR 37955 (8/27/82)	Do.
82-583	Generic name: N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate	47 FR 37955 (8/27/82)	Do.
82-584	Dimethyl ester of 4,4'-(hydroxymethylene)bis-1,2-benzenedicarboxylic acid	47 FR 37955 (8/27/82)	Do.
82-585	Polymer of dimethyl ester of 4,4'-(hydroxymethylene)bis-1,2-benzenedicarboxylic acid with 4,4'-methylenedianiline.	47 FR 39242 (9/7/82)	Nov. 17, 1982.
82-586	Generic name: Ethyl ester of tertiary butyl carbomonocyclic acid	47 FR 39242 (9/7/82)	Do.
82-587	Generic name: Alkylbenzenesulfonic acid compound with dialkyl fatty amine	47 FR 39242 (9/7/82)	Do.
82-588	4-(1,1-dimethylethyl)pyridine	47 FR 39242 (9/7/82)	Do.
82-589	Generic name: Cresol novolac modified methacrylic epoxy ester	47 FR 39242 (9/7/82)	Do.
82-590	Generic name: Fatty acid esters of monohydric alcohol	47 FR 39242 (9/7/82)	Nov. 20, 1982.
82-591	Generic name: Fatty acid esters of monohydric alcohol	47 FR 39242 (9/7/82)	Nov. 21, 1982.
82-592	Generic name: Polyester polymer	47 FR 39243 (9/7/82)	Do.
82-593	Generic name: Polyester polymer	47 FR 39243 (9/7/82)	Do.
82-594	Generic name: Polymer of alkyl and substitutedalkyl acrylates	47 FR 39243 (9/7/82)	Do.
82-595	Generic name: Di(substitutedalkyl)dimethyl-ammonium salt	47 FR 39243 (9/7/82)	Do.
82-596	Generic name: Di(substitutedalkyl)dimethyl-ammonium salt	47 FR 39243 (9/7/82)	Do.
82-597	Vinyl acetate-N-methylolacrylamide copolymer	47 FR 39243 (9/7/82)	Do.
82-598	Ethyl acrylate homopolymer	47 FR 39243 (9/7/82)	Nov. 22, 1982.
82-599	Vinyl acetate-ethyl acrylate-N methylol acrylamide polymer	47 FR 39243 (9/7/82)	Do.
82-600	Butyl acrylate-vinyl acetate copolymer	47 FR 39243 (9/7/82)	Do.
82-601	Ethyl acrylate-methyl methacrylate copolymer	47 FR 39243 (9/7/82)	Do.
82-602	Generic name: Mixed glycol oligoesters of mixed dicarboxylic acids	47 FR 39243 (9/7/82)	Do.
82-603	Generic name: Mixed glycol oligoesters of aromatic diocarboxylic acid	47 FR 39243 (9/7/82)	Do.
82-604	Generic name: Monoureido silane ester	47 FR 39243 (9/7/82)	Do.
82-605	Generic name: Thiadiazole derivative	47 FR 39244 (9/7/82)	Do.
82-606	Ethyl-{trifluoromethyl-poly-(oxy difluoromethylene)-poly-[oxy-2-trifluoromethyl-trifluoromethyl-trifluoroethylene]oxy}defluoromethyl carboxylate.	47 FR 39244 (9/7/82)	Nov. 23, 1982.

I. 110 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-607	Isopropyl-[trifluoromethyl-poly-(oxydifluoromethylene)-poly-[oxy-2-trifluoromethyl)-trifluoroethylene]oxy] difluoromethyl carboxylate.	47 FR 39244 (9/7/82)	Do.
82-608	Ethyl[ethyl oxycarbonyl difluoromethyl-poly-(oxydifluoromethylene)-poly-(oxytetrafluoroethylene)-oxy]difluoromethyl carboxylate.	47 FR 39244 (9/7/82)	Do.
82-609	Isopropyl[methyl oxycarbonyl difluoromethyl-poly-(oxydifluoromethylene)-poly-(oxytetrafluoro-ethylene)oxy]difluoromethyl carboxylate.	47 FR 39244 (9/7/82)	Do.
82-610	2-[2,20-difluorohydroxyethyl-poly-(oxydifluoromethylene)-poly-(oxytrifluoroethylene)oxy]-2,2-difluoro-ethanol.	47 FR 39244 (9/7/82)	Do.
82-611	2-[2,2-difluorohydroxyethyl-poly-(oxydifluoromethylene)-poly-(oxytrifluoroethylene)oxy]-2,2-difluro-ethanol.	47 FR 39244 (9/7/82)	Do.
82-612	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 25°-35°.	47 FR 39244 (9/7/82)	Do.
82-613	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 35°-50°.	47 FR 39244 (9/7/82)	Do.
82-614	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 50°-60°.	47 FR 39244 (9/7/82)	Do.
82-615	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 60°-75°.	47 FR 39244 (9/7/82)	Do.
82-616	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 75°-90°.	47 FR 39245 (9/7/82)	Do.
82-617	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 90°-105°.	47 FR 39245 (9/7/82)	Do.
82-618	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 105°-120°.	47 FR 39245 (9/7/82)	Do.
82-619	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 120°-140°.	47 FR 39245 (9/7/82)	Do.
82-620	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 140°-165°.	47 FR 39245 (9/7/82)	Do.
82-621	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 165°-180°.	47 FR 39245 (9/7/82)	Do.
82-622	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 180°-190°.	47 FR 39245 (9/7/82)	Do.
82-623	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 190°-200°.	47 FR 39245 (9/7/82)	Do.
82-624	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 200°-220°.	47 FR 39245 (9/7/82)	Do.
82-625	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 220°-235°.	47 FR 39246 (9/7/82)	Do.
82-626	Mixed C_5-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 235°-255°.	47 FR 39246 (9/7/82)	Do.
82-627	Generic name: Modified polyester	47 FR 39884 (9/10/82)	Do.
82-628	Generic name: Polyacrylate	47 FR 39885 (9/10/82)	Do.
82-629	Dimethyl hydantoin, formaldehyde, toluene sulfonamide condensation product	47 FR 39885 (9/10/82)	Do.
82-630	Generic name: Unsaturated alkyl fatty amine	47 FR 39885 (9/10/82)	Do.
82-631	Generic name: Unsaturated amine adduct	47 FR 39885 (9/10/82)	Do.
82-632	Generic name: Fatty secondary amide	47 FR 39885 (9/10/82)	Do.
82-633	Generic name: Fatty secondary amide	47 FR 39885 (9/10/82)	Do.
82-634	Generic name: Fatty secondary amide	47 FR 39885 (9/10/82)	Do.
82-635	Generic name: Alkyl acid esters	47 FR 39885 (9/10/82)	Do.
82-636	Generic name: Alkyl ester	47 FR 39885 (9/10/82)	Do.
82-637	Generic name: Stearyl methacrylate copolymer	47 FR 39885 (9/10/82)	Do.
82-638	Ethanol 2,2'-[sulfonyl bis(4,1-phenyleneoxy)]bis	47 FR 39885 (9/10/82)	Do.
82-639	Generic name: Polyacrylate copolymer	47 FR 39885 (9/10/82)	Do.
82-640	Generic name: Amino modified polyester	47 FR 39885 (9/10/82)	Do.

II. 56 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identity/generic name	FR citation	Expiration date
82-479	Generic name: Heteropolycyclic(dihydroxyheteropolycycle)	47 FR 30104 (7/12/82)	Sept. 29, 1982.
82-480	Generic name: Polyol polyacrylate	47 FR 30104 (7/12/82)	Do.
82-481	Generic name: Blocked urethane polymer	47 FR 31063 (7/16/82)	Sept. 30, 1982.
82-482	Generic name: Acetal of polyvinyl alcohol	47 FR 31063 (7/16/82)	Oct. 4, 1982.
82-483	Generic name: Polymer of acrylic acid and acrylic esters	47 FR 31063 (7/16/82)	Do.
82-484	Generic name: Phosphorodithioic acid, dialkyl ester amine salt	47 FR 31063 (7/16/82)	Do.
82-485	Generic name: Chlorotriazine modified copper phthalocyanine sodium salt	47 FR 31063 (7/16/82)	Do.
82-486	Generic name: Alkyl phosphate ester	47 FR 31063 (7/16/82)	Oct. 5, 1982.
82-487	Generic name: Copolymer of an alkenoic acid derivative, subsituted and unsubstituted vinyl aromatic compounds and a substituted alkene.	47 FR 31063 (7/16/82)	Do.
82-488	Found to be invalid	47 FR 31957 (7/23/82)	October 10, 1982.
82-489	Generic name: Sulfurized di-carboxylic polyglycol ester		
82-490	Found to be on the Inventory	47 FR 31957 (7/23/82)	Do.
82-491	Generic name: Polyester polymer	47 FR 31957 (7/23/82)	Oct. 11, 1982.
82-492	Generic name: Substituted dithoic acid salt	47 FR 31957 (7/23/82)	Do.
82-493	Generic name: Tetrasubstitued benzisoxazole	47 FR 33234 (7/30/82)	Oct. 14, 1982.
82-494	Generic name: 2,2-dimethyl-1,3-propanediol, polymer with 1,6-hexanediol, 1,3-dihydro-1,3-dioxo-5-isobenzofurancarboxylic acid, 1,3-benzenedicarboxylic acid, 1,4-benzenecarboxylic acid and 1,6-hexanedioic acid.	47 FR 33234 (7/30/82)	Do.
82-495	Generic name: Substituted naphthalene	47 FR 33235 (7/30/82)	Do.
82-496	Generic name: Rosin ester resin	47 FR 33235 (7/30/82)	Do.
82-497	Generic name: Rosin ester resin	47 FR 33235 (7/30/82)	Do.
82-498	Generic name: Rosin ester resin	47 FR 33235 (7/30/82)	Do.
82-499	Generic name: Rosin ester resin	47 FR 33235 (7/30/82)	Do.
82-500	Generic name: Alkyl cycloalkanol alkanoate	47 FR 33235 (7/30/82)	Oct. 17, 1982.
82-501	Generic name: Sustituted pentenedioate	47 FR 33235 (7/30/82)	Do.
82-502	Generic name: Substituted diazo compound	47 FR 33235 (7/30/82)	Do.
82-503	Generic name: Water base vinyl acrylic copolymer	47 FR 33235 (7/30/82)	

II. 56 Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
82-504	Polymer of 2-methyl-2-propenoic acid, 1-dodecyl ester; 2-methyl-2-propenoic acid, methyl ester; 2-methyl-2-propenoic acid, 1-butyl ester.	47 FR 33235 (7/30/82)	Oct. 18, 1982.
82-505	4,4'-bis-(2,6-dimethylphenol)sulfone	47 FR 33235 (7/30/82)	Do.
82-506	Generic name: alkoxy ester of N-methylacetamide	47 FR 33235 (7/30/82)	Do.
82-507	Generic name: Substituted isothiocyanate	47 FR 33235 (7/30/82)	Do.
82-508	Generic name: Bis alkoxylated aluminum acetoacetic ester chelate	47 FR 33235 (7/30/82)	Oct. 19, 1982.
82-509	Generic name: Alkane diol	47 FR 33235 (7/30/82)	Do.
82-510	Generic name: Polyether urethane	47 FR 33236 (7/30/82)	Do.
82-511	Found to be on the Inventory		
82-512	Generic name: Phenyl derivative of an ethyl methacrylate	47 FR 33236 (7/30/82)	Do.
82-513	Generic name: Alkyl diol, toluene diisocyanate, alkene ester, adipic acid resin	47 FR 33236 (7/30/82)	Do.
82-514	Generic name: Substituted cycloaliphatic hydroxyalkyl ether ester	47 FR 33236 (7/30/82)	Do.
82-515	Generic name: Acrylate ester of acrylic polymer	47 FR 33236 (7/30/82)	Do.
82-516	Generic name: Aromatic amine derivative	47 FR 33236 (7/30/82)	Do.
82-517	Generic name: Polysulfide polymer with formal and alcohol moiety	47 FR 34187 (8/6/82)	Oct. 20, 1982.
82-518	Generic name: Metal complex substituted aromatic	47 FR 34187 (8/6/82)	Do.
82-519	2-(6-chloro-2-benzothiazolylazo)-5-[N-(2-cyano-ethyl)-N-(n-pentyl)amino]-acetanilide	47 FR 34187 (8/6/82)	Do.
82-520	2-(3-hydroxy-2-quinolinyl)-2,3-dihydro-1,3-dioxo-1H-indene-5-carboxylic acid methyl (ethyl) ester	47 FR 34187 (8/6/82)	Do.
82-521	4-(2,6-dichloro-4-nitrophenylazo)-[N-(2-cyano-ethyl)-N-(2-phenoxyethyl)amino]benzene	47 FR 34187 (8/6/82)	Do.
82-522	Generic name: Diureido silane ester	47 FR 34188 (8/6/82)	Oct. 24, 1982.
82-523	Generic name: Polyaryl sulfone ether	47 FR 34188 (8/6/82)	Do.
82-524	Generic name: Salt of polyhydroxy stearic acid and polyethyleneimine	47 FR 34188 (8/6/82)	Do.
82-525	Generic name: Polyester modified epoxy resin	47 FR 34188 (8/6/82)	Do.
82-526	Generic name: Polyester modified epoxy resin	47 FR 34188 (8/6/82)	Do.
82-527	Generic name: Titanium (4+) mixed alcohol complex	47 FR 34188 (8/6/82)	Do.
82-528	Generic name: Polymer of aromatic aldehyde and phenolic compound	47 FR 34188 (8/6/82)	Do.
82-529	Generic name: Aliphatic acid ester salt	47 FR 34188 (8/6/82)	Do.
82-530	Generic name: Acidic aliphatic ester	47 FR 34188 (8/6/82)	Do.
82-531	Generic name: Organophosphorus compound	47 FR 34188 (8/6/82)	Do.
82-532	Generic name: Organophosohorus compound	47 FR 34188 (8/6/82)	Do.
82-533	Generic name: Polyhydroxylated diisocyanate	47 FR 34188 (8/6/82)	Oct. 25, 1982.
82-534	Generic name: Polyether-urethane	47 FR 34188 (8/6/82)	Do.
82-535	Generic name: Modified phenol formaldehyde substituted alkylamine	47 FR 34189 (8/6/82)	Do.
82-536	Generic name: Alkyl ester of polyethylene glycol	47 FR 35332 (8/13/82)	Do.
82-537	Generic name: Amine/amine salt of dicarboxylic acid	47 FR 35333 (8/13/82)	Oct. 27, 1982.
			Do.

III. 85 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory.)

PMN No.	Identity/generic name	FR citation	Expiration date
82-323	Generic name: t/alkyl peroxyester	47 FR 20853 (5/14/82)	Aug. 1, 1982.
82-324	Generic name: phenoxy ester resin	47 FR 20853 (5/14/82)	Do.
82-325	Generic name: Acrylic resin	47 FR 20853 (5/14/82)	Do.
82-326	Generic name: Substituted pyridine	47 FR 20853 (5/14/82)	Do.
82-327	Generic name: Hydroxy, amine-substituted anthraquinone	47 FR 20853 (5/14/82)	Aug. 2, 1982.
82-328	Generic name: Modified amine	47 FR 20853 (5/14/82)	Do.
82-329	Generic name: Poly[(aminoalkylamino)alkylene oxide]	47 FR 20853 (5/14/82)	Do.
82-330	Generic name: poly(vinyl acrylate)	47 FR 20853 (5/14/82)	Aug. 3, 1982.
82-331	Generic name: Nitrophenyl amide	47 FR 20853 (5/14/82)	Do.
82-332	Generic name: Aminophenyl amide	47 FR 20853 (5/14/82)	Do.
82-333	Generic name: Polyacrylate	47 FR 20853 (5/14/82)	Do.
82-334	Generic name: 5-chloro-4-nitro-2-substituted aryloxydimethylaniline	47 FR 20853 (5/14/82)	Aug. 4, 1982.
82-335	Generic name: 5-chloro-2-substituted aryloxy-aniline	47 FR 20853 (5/14/82)	Do.
82-336	Generic name: 2-chloro-4(N,N-dimethylamino)-5-substituted aryloxydiazonium tetrafluroborate	47 FR 20854 (5/14/82)	Do.
82-337	Generic name: 5-chloro-2-substituted aryloxy-dimethylaniline	47 FR 20854 (5/14/82)	Do.
82-338	Generic name: Disubstituted triazolidine	47 FR 20854 (5/14/82)	Do.
82-339	Generic name: Disubstituted triazolidine salt	47 FR 20854 (5/14/82)	Do.
82-340	Generic name: Complex quaternary ammonium chloride	47 FR 22214 (5/21/82)	Aug. 5, 1982.
82-341	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-342	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-343	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-344	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-345	Generic name: Polyhalo alkoxyaryl nitrile	47 FR 22214 (5/21/82)	Aug. 8, 1982.
82-346	Generic name: Reaction product of a substituted benzene, formaldehyde and inorganic acid	47 FR 22214 (5/21/82)	Aug. 9, 1982
82-347	Generic name: Polyurethane of a diisocyanate and a substituted alkanediol	47 FR 22214 (5/21/82)	Do.
82-348	Generic name: Urea/carbamate elastomer	47 FR 22214 (5/21/82)	Do.
82-349	Generic name: Polycyclic sulfonic acid salt	47 FR 22215 (5/21/82)	Aug. 10, 1982.
82-350	Generic name: Titanium (4) mixed alcohol complex	47 FR 22215 (5/21/82)	Do.
82-351	Generic name: Titanium (4) mixed alcohol complex	47 FR 22215 (5/21/82)	Do.
82-352	Generic name: Naphthalenedisulfonic acid, [[aminosulfohydroxy naphthalenyl]azo]-, tri-sodium salt.	47 FR 22215 (5/21/82)	Do.
82-353	Generic name: Substituted phenyl-pyrimidine	47 FR 22215 (5/21/82)	Aug. 11, 1982.
82-354	Generic name: Substituted phenyl-pyrimidine	47 FR 22215 (5/21/82)	Do.
82-355	Generic name: Substituted phenyl-pyrimidin bicyclic azo heterocyclic merocyanine	47 FR 22215 (5/21/82)	Do.
82-356	Generic name: Polymer of 1,4-benzenedicarboxylic acid dimethyl ester; dihydroxyalkane; 1,6-hexanediol; alpha hydro-omega hydroxy poly (oxy-1,4-butanediyl).	47 FR 22215 (5/21/82)	Do.
82-357	Generic name: 2,5-diisopropoxy-4-morpholino benzene diazonium aryl sulfonic acid salt	47 FR 23552 (5/28/82)	Aug. 12, 1982.
82-358	Generic name: Modified phenoxy-S resin	47 FR 23552 (5/28/82)	Do.
82-359	Generic name: Polyester resin	47 FR 23552 (5/28/82)	Do.
82-360	Generic name: Trisubstituted benzisoxazole	47 FR 23553 (5/28/82)	Do.
82-361	Generic name: Tetrasubstituted benzene	47 FR 23553 (5/28/82)	Do.
82-362	Generic name: Substituted benzamide	47 FR 23553 (5/28/82)	Do.
82-363	Generic name: Polyoxypropylene ester acyl caprolactam	47 FR 23553 (5/28/82)	Aug. 15, 1982.
82-364	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.
82-365	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.
82-366	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.
82-367	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.

III. 85 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory.)—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
82-368	Generic name: Alkenyl alkyl siloxane alkoxy terminated	47 FR 23553 (5/28/82)	Aug. 16, 1982.
82-369	Generic name: Benzenedicarboxylic acid saturated mixed glycols copolyester	47 FR 23553 (5/28/82)	Do.
82-370	Generic name: Benzenedicarboxylic acid saturated mixed glycols copolyester	47 FR 23553 (5/28/82)	Do.
82-371	Generic name: Disubstituted alkane	47 FR 23553 (5/28/82)	Do.
82-372	Generic name: ((Substituted phenyl)azo)-Dihydro-hydroxy-alkyl-oxo-pyridinecarbonitrile	47 FR 23554 (5/28/82)	Do.
82-373	Generic name: Poly(ester-urethane)	47 FR 23554 (5/28/82)	Aug. 17, 1982.
82-374	Generic name: Alkyl thiadiazole	47 FR 23554 (5/28/82)	Do.
82-375	Formaldehyde polymer with 2-furanmethanol and methyloxirane capped	47 FR 23554 (5/28/82)	Aug. 18, 1982.
82-376	Polymer of trimethylol propane, 1,6 hexanediol, neopentyl glycol, trimellitic anhydride, adipic acid, and isophthalic acid.	47 FR 23554 (5/28/82)	Do.
82-377	Generic name: Hybrid urethane	47 FR 23554 (5/28/82)	Do.
82-378	Generic name: Hybrid urethane	47 FR 23554 (5/28/82)	Do.
82-379	Generic name: Tetrasubstituted benzisoxazole	47 FR 23554 (5/28/82)	Do.
82-380	Generic name: Disubstituted benzoxazole	47 FR 23554 (5/28/82)	Do.
82-381	Generic name: Tetrasubstituted benzisoxazole	47 FR 25400 (6/11/82)	Do.
82-382	Generic name: Polymer of alkenoic acid alkyl esters, 2-propenoic acid, and 2-propenoic acid, 2-methyl.	47 FR 25400 (6/11/82)	Aug. 19, 1982.
82-383	Generic name: Brominated xylenol	47 FR 25400 (6/11/82)	Aug. 22, 1982.
82-384	Generic name: Bis[bromo xylenol]sulfide	47 FR 25400 (6/11/82)	Do.
82-385	Generic name: Bis[xylenol]sulfide	47 FR 25400 (6/11/82)	Do.
82-386	Generic name: Metal complex of disazo aromatic acids, sodium salt	47 FR 25400 (6/11/82)	Aug. 23, 1982.
82-387	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters	47 FR 25401 (6/11/82)	Do.
82-388	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	Do.
82-389	Reaction product of [[(phosphonomethyl]imino] bis-[6,1-hexanediyl-nitrilobis(methylene)] tetrakis-phosphonic acid (2,2' oxybisethanol, reaction products with ammonia; morpholine derivatives, residues).	47 FR 25401 (6/11/82)	Do.
82-390	Polymer of styrene, 2-propenoic acid, 1,1-dimethylethyl ester of 2-propenoic acid, 2-ethylhexyl ester of 2 propenoic acid, and 2-hydroxy propyl acrylate.	47 FR 25401 (6/11/82)	Do.
82-391	Invalid		
82-392	Generic name: Hydroxy ethyl ester substituted polybis imide of pyromellitic dianhydride	47 FR 25401 (6/11/82)	Aug. 25, 1982.
82-393	Amines, N-(3-aminopropyl)-N-talloalkyltri-methylenedibis-(3-aminopropyl)-N-tallowamine	47 FR 25401 (6/11/82)	Do.
82-394	Generic name: Modified polyurethane from diisocyanate, substituted alkanol and a substituted alkane diol.	47 FR 25401 (6/11/82)	Do.
82-395	Generic name: Polymer of a vegetable oil derivative, alkane diols and a carbomonocyclic anhydride.	47 FR 25401 (6/11/82)	Do.
82-396	Generic name: Substituted oxirane reacted with polyalkylene glycol	47 FR 25401 (6/11/82)	Do.
82-397	Generic name: Tetrasubstituted benzisoxazole	47 FR 25402 (6/11/82)	Aug. 26, 1982.
82-398	Generic name: A mixture of benzamide, N-((substituted naphthyl)azo)phenyl-(substituted amino-hydroxy-sulfonaphthyl)azo) and benzamide, N-((substituted naphthyl)azo)phenyl-((substituted amino-hydroxy-sulfonaphthyl)azo, compounded with organic acids.	47 FR 25402 (6/11/82)	Do.
82-399	C_{16-18}-alkyl mercaptoacetates reaction products with dichlorodioctylstannane and trichloro-octystannane.	47 FR 25402 (6/11/82)	Do.
82-402	Generic name: Styrene-diene-substituted alkene copolymer	47 FR 254402 (6/11/82)	Aug. 30, 1982.
82-403	Ethyl acrylate-methyl acrylate copolymer	47 FR 25402 (6/11/82)	Aug. 31, 1982.
82-404	Ethyl acrylate-methyl methacrylate copolymer	47 FR 25402 (6/11/82)	Do.
82-405	Ethyl acrylate-methyl acrylate-methyl methacrylate copolymer	47 FR 25402 (6/11/82)	Do.
82-406	Ethyl acrylate-methyl acrylate copolymer	47 FR 25403 (6/11/82)	Do.
82-407	Vinyl acetate homopolymer	47 FR 25403 (6/11/82)	Do.
82-408	Generic name: Tetra tosylate porphine	47 FR 25403 (6/11/82)	Do.
82-410	Generic name: Substituted heterocycle, amine salt	47 FR 25403 (6/11/82)	Do.
82-411	Generic name: Mixed metal hydroxide	47 FR 25403 (6/11/82)	Do.

IV. 32 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN No.	Chemical identification	FR citation	Date of commencement
80-110	Generic name: 2-((2-(methylsubstituted)ethyl-oxycarbonyl)substituted) phenyl, disulfo, di-heteropolycyclic heteropolycycle.	45 FR 42018 (6/23/80)	June 2, 1982.
80-111	Generic name: 2-((2-(methylsubstituted)ethyl-oxycarbonyl) substituted) phenyl, disulfo, di-heteropolycyclic heteropolycycle.	45 FR 42018 (6/23/80)	May 24, 1982.
80-112	Generic name: 2-((2-(methylsubstituted)ethyl-oxycarbonyl) substituted) phenyl, diheteropolycyclic heteropolycycle.	45 FR 42018 (6/23/80)	Apr. 29, 1982.
80-113	Generic name: 2-((2-(methylsubstituted)phenyl), diheteropolycyclic heteropolycycle	45 FR 42018 (6/23/80)	Mar. 9, 1982.
80-114	Generic name: (Dioxo heteropolycylic), diheteropolycyclic heteropolycycle	45 FR 42018 (6/23/80)	Mar. 18, 1982.
80-115	Generic name: (Dioxoheteropolycylic), diheteropolycyclic heteropolycycle	45 FR 42018 (6/23/80)	Feb. 2, 1982.
80-116	Generic name: (2-substitutedphenyl), diheteropolycyclic heteropolycycle	45 FR 42018 (6/23/80)	July 26, 1982.
81-218	Adipic acid-dipropylene glycol-linseed oil fatty acid-trimelletic anhydride-trimethylol propane	46 FR 29526 (6/2/81)	Aug. 3, 1982.
81-418	Generic name: Nitropolyhaloalkylbenzenepoly-amine	46 FR 45998 (9/16/81)	Aug. 23, 1982.
81-437	Generic name: Polynitro Polyhalo alkyl aniline	46 FR 47003 (9/23/81)	Aug. 9, 1982.
82-68	Generic name: Polymer of diphenylmethane diiso-cyanate and hydroxy alkyl ethers	47 FR 6365 (2/11/82)	July 21, 1982.
82-145	Generic name: Modified polyester polyurethane from substituted alkanediols acid and a diisocyanate.	47 FR 10074 (3/9/82)	July 22, 1982.
82-209	Generic name: Polymer from disubstituted monocycle and disubstituted alkanes	47 FR 13038 (3/26/82)	July 23, 1982.
82-223	Generic name: Polyester-urethane	47 FR 14218 (4/2/82)	Oct. 1, 1982.
82-245	Generic name: Modified polyurethane	47 FR 16403 (4/16/82)	July 1, 1982.
82-246	Generic name: Barium sulfonated red	47 FR 16403 (4/16/82)	July 8, 1982.
82-271	Generic name: Acid blocked amine	47 FR 16405 (4/16/82)	August 1982.
82-273	*m*-chlorophenylphenylsulfide	47 FR 16405 (4/16/82)	Do.
82-301	Generic name: Neutralized polymer of styrene, alkyl acrylates and substituted alkyl methacrylates	47 FR 18653 (4/30/82)	Aug. 19, 1982.
82-304	Generic name: Quaternary amine functional polyether urethane modified polyglycidyl	47 FR 18654 (4/30/82)	Oct. 1, 1982.
82-309	Generic name: Cationic substituted acid amide	47 FR 19782 (5/7/82)	Aug. 9, 1982.
82-310	Generic name: Cationic substituted acid amide polymer	47 FR 19782 (5/7/82)	Do.
82-311	Generic name: Unsaturated alkyl amino alkyl dioxlane	47 FR 19782 (5/7/82)	July 25, 1982.
82-312	Generic name: Dihaloethylacetate	47 FR 19782 (5/7/82)	Do.
82-313	Acetamide, 2, 2-dichloro-N-(1,3-dioxlan-2-ylmethyl)-N-2-propenyl	47 FR 19782 (5/7/82)	Do.
82-321	Generic name: Polyester random copolymer	47 FR 19783 (5/7/82)	Aug. 1, 1982.
82-322	Generic name: Styrene acrylate copolymer	47 FR 20853 (5/14/82)	Sept. 1, 1982.

IV. 32 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE—Continued

PMN No.	Chemical identification	FR citation	Date of commencement
82-333	Generic name: Polyacrylate	47 FR 20853 (5/14/82)	Aug. 3, 1982.
82-348	Generic name: Urea/carbamate elastomer	47 FR 22214 (5/21/82)	Aug. 9, 1982.
82-349	Generic name: Polycyclic sulfonic acid salt	47 FR 22215 (5/21/82)	Aug. 23, 1982.
82-392	Generic name: Hydroxy ethyl ester substituted poly bis imide of pyromellitic dianhydride	47 FR 25401 (6/11/82)	Aug. 27, 1982.
82-396	Generic name: Substituted oxirane reacted with polyalkylene glycol	47 FR 25401 (6/11/82)	Sept. 6, 1982.

V. 19 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED

PMN No.	Identity/generic name	FR citiation	Date suspended
80-137	Benzeneamine, 4,4'-methylene bis [*N*-(1-methybutylidene)	45 FR 48243 (7/18/80)	Sept. 22, 1980.
80-138	Benzeneamine, 4,4'-methylene bis [*N*-(1-methybutylidene)	45 FR 48243 (7/18/80)	Do.
80-146	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt.	45 FR 49153 (7/23/80)	Sept 17, 1980.
80-147	Phosphorodithioic acid *O,O'* -di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	Do.
80-264	Generic name: Benzeneamine, [*N*-(1-methylhexylidene)-*N*-(1-methyl butylidene)-4,4'-methylene bis]	45 FR 73127 (11/4/80)	Dec. 24, 1980.
81-534	2,3-epoxycyclohexanone	46 FR 53522 (10/29/81)	Nov. 2, 1981.
81-558	4-hydroxy-3-(5-(2-hydroxysulfonyloxy) ethylsufonyl)-2-methoxyphenylazo)-7-succinylamino-2-naphthalenesulfonic acid disodium salt.	46 FR 55146 (11/6/81)	Jan. 27, 1982.
81-561	4-[4-[2-(hydroxysulfonyoxy)ethylsulfonyl]-5-methyl-2-methoxyphenylazo]-3-methyl-1-(3-sulfophenyl)-5-pyrazolone disodium salt.	46 FR 55146 (11/6/81)	Do.
81-660	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxy-sulfonyloxy)ethylsufonyl)phenylazo)-1-naphthalene sulfonic acid disodium salt.	47 FR 1021 (1/8/82)	Mar. 28, 1982.
81-661	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxy-sulfonyloxy)ethylsulfonyl)phenylazo)-6-(3-sulfophenyl)amino-2-naphthalenesulfonic acid trisodium salt.	47 FR 1021 (1/8/82)	Do.
82-23	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 3595 (1/26/82)	May 12, 1982.
82-59	Generic name: Aromatic disazo dye	47 FR 5330 (2/4/82)	Apr. 20, 1982.
82-60	Gereric name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5932 (2/9/82)	Apr. 15, 1982.
82-387	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters	47 FR 25410 (6/11/82)	July 30, 1982.
82-388	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	Do.
82-400	Potassium N,N-bis(hydroxyethyl) cocamine oxide phosphate	47 FR 25402 (6/11/82)	Aug. 20, through Sept. 4, 1982.
82-401	Generic name: Polyvinyl starch (6/11/82)	47 FR 25402	Aug. 19, 1982.
82-409	Potassium N,N-bis(hydroxyethyl) tallow amine oxide phosphate	47 FR 25403 (6/11/82)	Aug. 20, through Sept. 4, 1982.
82-432	Reaction mixture containing: isobornyl acetylacetate, isobornyl acetate and ethylacetylacetate	47 FR 27610 (6/25/82)	July 2, 1982.

[FR Doc. 82-26961 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

[WH-FRL 2204-5]

State and Local Assistance; Grants for Construction of Treatment Works

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Reallotment.

SUMMARY: This notice sets forth the distribution of construction grant funds subject to reallotment after September 30, 1981, under section 205 of the Clean Water Act, 33 U.S.C. 1285. These funds include unobligated fiscal year (FY) 1979 and 1980 allotments, recovered prior year funds, which were available but unobligated during fiscal year 1981, and unobligated FY 1978 funds inadvertently reallotted to the District of Columbia. This notice also explains the procedure by which the reallotment distribution was determined.

Section 205(d) of the Clean Water Act (the Act) requires that funds allotted for FY 1978 and beyond which are not obligated by the end of the initial allotment availability period "* * * shall be immediately reallotted by the Administrator * * * ". Through promulgation of this notice the public is notified of the additional amounts available to the other States for grants for the construction of municipal wastewater treatment facilities. Under section 205(d), these funds are available for obligation until September 30, 1983.

(a) Of the $4.2 billion appropriated by Pub. L. 95–392 for fiscal year 1979, $21,035,394 remained unobligated as of September 30, 1981 and thereby became available for reallotment.

(b) $3.4 billion was appropriated by Pub. L. 96–103 for fiscal year 1980. Of the $2.52 billion remaining after rescission of $0.88 billion, $17,518,325 remained unobligated as of September 30, 1981 and thereby became subject to reallotment.

(c) In making the reallotment of fiscal year 1978 funds (45 FR 83497, December 19, 1980), the $223,087 unobligated balance of the District of Columbia's fiscal year 1978 allotment was inadvertently not included. Those funds were subsequently reserved for reallotment as of September 30, 1981.

(d) $82,800 in recovered fiscal year 1978 supplemental funds and $28,760 in recovered fiscal year 1973–76 contract authority funds were also available for reallotment.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Albert L. Pelmoter, Chief, Program Policy Branch, Municipal Construction Division (WH–547), Office of Water Program Operations, (202) 426–8820.

SUPPLEMENTARY INFORMATION:

Background

Sums allotted to a State under section 205 of the Act remain available for obligation for one year after the close of the fiscal year for which the funds were appropriated (§ 35.910–2(b)). Funds not obligated at the end of the period of availability are reallotted to the States which fully obligated their allotments. Ordinarily, only fiscal year 1980 unobligated funds would be available for reallottment at this time. However, section 7 of Pub. L. 96–483 extended the availability of fiscal year 1979 funds from September 30, 1980 to September 30, 1981. Consequently, unobligated funds from both years were available for reallotment after September 30, 1981. Also available were $223,087 in fiscal

year 1978 funds which were not obligated by the District of Columbia by September 30, 1979. These funds were inadvertently not included in a previous reallotment process (45 FR 83497, December 19, 1980). An adjustment was also needed to correct the District's inadvertent participation in the reallotment of fiscal year 1978 Ohio funds.

"Recoveries" made between the dates of the fiscal year 1979 and 1981 allotments were also subject to reallotment after September 30, 1981. Recoveries are deobligated funds which were issued or reissued in a prior fiscal year, and are treated in the same manner as the most recent allotment—in this case 1980 (§ 35.910–2(c)).

At the close of the fiscal years 1979 and 1980 allotment period (September 30, 1981), 22 States and territories had not obligated $21,035,394 of their fiscal year 1979 allotments and 16 States and territories had not obligated $17,518,325 of their fiscal year 1980 allotments. Five States and territories did not obligate $82,800 of their recovered fiscal year 1978 supplemental allotments; eight did not reobligate $28,760 of fiscal year 1973–76 contract authority recoveries before the September 30, 1981 deadline.

Issues

Reserves

Several issues had to be resolved before the reallotment could be made. Among these was the manner in which innovative and alternative (I/A) technology and rural alternative systems funding reserves would be handled. Section 205(i) of the Act required each State to set aside from its annual allotment a specific percentage to increase the Federal share of grant awards from 75 percent to 85 percent of the eligible cost of projects employing I/A technology. The reserves, of which a minimum of ½ of one percent was to be set aside for innovative technololgy, were two percent in fiscal years 1979 and 1980 and three percent in 1981 (35.915–1(b)). Under section 205(h) of the Act, the reserve for rural alternative systems (35.915–1(e)) was 4 percent in fiscal years 1979 and 1980. Two alternatives were investigated in reallotting the reserves: (a) Treat all the funds in a State's unobligated balance (for either fiscal year) as a lump sum, including the unobligated reserves or (b) treat each unobligated reserve as though it were a separate allotment and thus preserve it for I/A or rural alternative projects. It was concluded that the Act requires that any funds not obligated by a State by the end of the allotment period be reallotted as a lump sum regardless of the reserve(s) to which the funds had been assigned.

Further, consideration was given to whether any of the funds should be assigned to current reserves after reallotment. Since the Act requires reserves (including State Management Assistance under section 205(g)) to be based on an annual appropriation, and the reallotted funds would be in addition to the statutory amount, it was concluded that reallotted funds are not assignable to reserves.

Court Ordered Set Asides

Another issue involved funds not obligated by the September 30, 1981 deadline because they were included in court ordered set asides. In several States, State or Federal courts had ordered that certain amounts be set aside for specific projects to be funded after the end of the fiscal year. Since these set asides could only be used for the projects designated by the courts, the court ordered set asides were treated as obligated funds.

Recoveries

Although section 35.910–2 provides that recovered funds "* * * shall be treated in the same manner as the most recent allotment before deobligation", it was necessary to decide whether to treat recoveries which became available for reallottment after September 30, 1981, and unobligated fiscal year 1980 funds which became available for reallotment at the same time, as one sum or as two separate accounts. If they were treated as one account, States which had obligated all their 1980 funds but had not reobligated all their 1978 and 1973–76 recoveries would not have qualified to receive reallotted funds from States which did not obligate all their 1980 funds. Several EPA Regional Offices stated that they did not expect the amounts to be combined for reallotment purposes, so they did not track the 1978 and prior year recoveries closely enough to assure that these funds would be fully obligated. As a result, several States which obligated all of their 1980 funds were left with unobligated recoveries.

Because of this confusion, each account was reallotted separately this year. In the future, recoveries and balances from the allotment to which the recoveries are added will be treated together. Consequently, States with unobligated balances in any account will not qualify for reallotment.

Reconciliation of Records

Efforts to reconcile discrepancies between EPA Headquarters' and Regional Offices' financial records as well as an examination of the timeliness of the issuance of allowances for deobligated funds by EPA considerably delayed the reallotment process. These matters were resolved through extensive discussions among the States, EPA Regional Offices and EPA Headquarters. The basic criterion used was: A State should not be penalized for an error or lack of timeliness by EPA. It was also concluded that in determining when deobligated funds are subject to reallotment, the date to be used is the date the deobligated funds are reissued by the EPA Comptroller to the EPA Regional Administrator.

Northern Mariana Islands

Pub. L. 95–348 (1978) contains a provision preserving funds appropriated for use by the Northern Mariana Islands. Section 3(a)(2) provides that any funds made available to the Northern Mariana Islands by the Congress after March 24, 1976 "* * * are hereby authorized to remain available until expended." Accordingly, construction grant funds allotted to the Northern Mariana Islands which remain unobligated at the close of the period of availability prescribed by section 205(d) of the Act are not subject to reallotment. The Northern Mariana Islands does not participate in the reallotment of those funds which its unobligated balances would have been a part, however.

Correction of Previous Reallotment

Two States—Ohio and the District of Columbia—did not fully obligate their 1978 allotments. Ohio's unobligated balance of 1978 funds was realloted to the other States, including the District of Columbia. The District should not have been included among the States receiving realloted funds because it had an unobligated balance of 1978 funds in the amount of $223,087. This oversight has been corrected by realloting the $223,087 among all the States and territories except Ohio and the District. Also realloted was the $118,190 the District received in realloted 1978 Ohio funds. The $118,190 was transferred from the District's 1980 unobligated balance, since the realloted 1978 Ohio funds were treated as 1980 funds. The effect of this correction is put all States in the same position they would have been in had the 1978 reallotment been accomplished properly.

Reallotment Procedure

As a result of the above considerations, five pools of funds were reallotted among the States which had fully obligated their funds in each category. The five pools were:

(1) Fiscal year 1980 allotment;

(2) Fiscal year 1979 allotment;

(3) Fiscal year 1978 supplemental allotment;

(4) Fiscal year 1973–76 contract authority;

(5) District of Columbia unobligated 1978 balance, including 1978 Ohio funds inadvertently reallotted to the District.

To distribute the funds in each pool in accordance with the requirements of sections 205(g) and 205(e) of the Act, the following procedure was used:

1. Applicable percentages (35.910–8(a)) to reflect the absence of States which had not fully obligated the funds in a pool were computed and applied to the amount available for reallotment from that pool.

2. Since section 205(e) of the Act requires that no State shall receive less than one-half of one percent of an allotment, 0.5 percent of the amount to be reallotted from each pool was computed and the States whose allotments were less than this amount had their shares raised to the 0.5 percent level. By so doing, the reallotment total was increased by the amount required to bring those States up to 0.5 percent "floor". Since supplemental funds are not provided, a recomputation was necessary so that, in raising those States to the 0.5 percent minimum, the overall total would not exceed the amount available for reallotment.

Results of Reallotment

The following table lists the States which did not fully obligate funds and the amounts subject to reallotment:

TABLE 1

	D.C. (1978)	1973–76	1978	1979	1980	Total
Alaska				$1,236,740	$492,175	$1,728,915
Arkansas					46,168	46,168
Colorado					27,896	27,896
Connecticut				225,704		225,704
Delaware				861,105		861,105
District of Columbia	$341,277			12,974,318	12,307,263	25,622,858
Hawaii				164,182	83,985	248,167
Iowa					24,135	24,135
Kansas				129,001		129,001
Louisiana				26,163	487,943	514,106
Maryland				147,365	292,755	440,120
Missouri		$20,329	$57,029			77,358
Nebraska			8,378			8,378
New Hampshire				218,326		218,326
North Dakota		2,561	7,832	197,121	221,209	428,723
Ohio				583,247	2,276,230	2,859,477
Oregon				274,240		274,240
Pennsylvania				1,695,782		1,695,782
South Dakota				121,297		121,297
Utah						5,870
Washington		5,870		317,934	3,054	320,988
West Virginia				1,013,967		1,013,967
Guam				15,408	31,525	46,933
Puerto Rico				733,034	1,183,139	1,916,173
Virgin Islands			9,561	20,598		30,159
American Samoa				51,028	26,102	77,130
Trust Territories of Pacific Islands				28,834	14,746	43,580
Northern Mariana Islands				[1]11,406	[1]5,847	17,253
Total	341,277	28,760	82,800	21,035,394	17,518,325	39,006,556
Rounded prior to distribution	341,200	28,700	82,800	21,035,300	17,518,300	39,006,300

[1] Not subject to reallotment.

The $39,006,556 from Table 1 is reallotted as follows:

TABLE 2

	D.C. (1978)	1973–76	1978	1979	1980	Total
Alabama	$4,600	$400	$1,100	$365,000	$273,000	$644,100
Alaska	1,800	100	400			2,300
Arizona	2,800	200	700	220,400	164,900	389,000
Arkansas	2,700	200	600	213,500		217,000
California	28,700	2,300	6,700	2,259,600	1,690,200	3,987,500
Colorado	3,300	300	800	261,100		265,500
Connecticut	4,000	300	900		235,400	240,600
Delaware	1,800	200	400		106,300	108,700
District of Columbia		200	400			600
Florida	13,900	1,100	3,300	1,090,300	815,600	1,924,200
Georgia	7,000	600	1,600	551,800	412,800	973,800
Hawaii	2,900	200	700			3,800
Idaho	1,800	100	400	142,100	106,300	250,700
Illinois	18,800	1,500	4,400	476,100	1,104,200	2,605,000
Indiana	10,000	800	2,300	786,600	588,400	1,388,100
Iowa	4,700	400	1,100	368,100		374,300
Kansas	3,200	300	800		187,100	191,400
Kentucky	5,300	400	1,200	415,400	310,700	733,000
Louisiana	4,600	400	1,100			6,100
Maine	2,700	200	600	213,000	159,300	375,800
Maryland	10,000	800	2,400			13,200
Massachusetts	10,700	900	2,500	839,500	628,000	1,481,600
Michigan	14,900	1,200	3,500	1,173,900	878,100	2,071,600
Minnesota	6,800	600	1,600	531,200	397,300	937,500
Mississippi	3,500	300	800	274,500	205,300	484,400
Missouri	9,000			709,200	530,500	1,248,700
Montana	1,800	100	400	142,100	106,300	250,700
Nebraska	2,000	200		156,400	117,000	275,600

TABLE 2—Continued

	D.C. (1978)	1973–76	1978	1979	1980	Total
Nevada	1,800	100	400	142,100	106,300	250,700
New Hampshire	3,200	300	800		187,300	191,600
New Jersey	12,900	1,100	3,000	1,015,000	759,200	1,791,200
New Mexico	1,800	100	400	142,100	106,300	250,700
New York	38,400	3,100	9,000	3,018,300	2,257,700	5,326,500
North Carolina	7,200	600	1,700	562,900	421,100	993,500
North Dakota	1,800					1,800
Ohio		1,900	5,500			7,400
Oklahoma	3,300	300	800	263,700	197,200	465,300
Oregon	4,700	400	1,100		275,800	282,000
Pennsylvania	15,800	1,300	3,700		927,200	948,000
Rhode Island	1,900	200	400	149,300	111,600	263,400
South Carolina	4,200	300	1,000	334,400	250,100	590,000
South Dakota	1,800	100	400		106,300	108,600
Tennessee	5,600	500	1,300	440,100	329,200	776,700
Texas	15,800	1,300	3,700	1,240,000	927,500	2,188,300
Utah	1,800		400	142,100	106,300	250,600
Vermont	1,800	200	400	142,100	106,300	250,800
Virginia	7,100	600	1,700	557,100	416,700	983,200
Washington	6,400	500	1,500			8,400
West Virginia	6,500	500	1,500		380,600	389,100
Wisconsin	7,000	600	1,700	554,200	414,600	978,100
Wyoming	1,800	100	400	142,100	106,300	250,700
Guam	380		100			480
Puerto Rico	4,200	300	1,000			5,500
Virgin Islands	100				8,000	8,100
American Samoa	256		100			356
Trust Territories of Pacific Islands	620		100			720
Northern Mariana Islands						
Total	[1]341,456	28,700	82,800	21,035,300	17,518,300	39,006,556

[1] Individual reallotments rounded to $100 except for Guam, American Samoa and Trust Territories, which received the $256 difference between the true total ($39,006,556) and the rounded total ($39,006,300).

These funds have been available for obligation since July 7, 1982, when advices of allowance were issued by the Comptroller to the Regional Administrators. Under section 205(d) of the Act, the funds will remain available for obligation until September 30, 1983.

Dated: September 20, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-26959 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

[PH-FRL 2217-4; OPP-240022]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from 47 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT: Mary Waller, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716E, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: The registrations listed below were received by EPA between January 1, 1982 and April 30, 1982. Receipts by EPA of state registrations will be published periodically. Except as indicated by (CUP) in four of the registrations listed below, there is no changed use pattern involved in any of these registrations.

Alabama

EPA SLN No. AL 82 0001. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lexone Weed Killer, to be used on soybeans to control sicklepods. February 8, 1982.

EPA SLN No. AL 82 0002. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lexone #4 Weed Killer, to be used on soybeans to control sicklepods. February 8, 1982.

EPA SLN No. AL 82 0003. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lexone DF Weed Killer, to be used on soybeans to control sicklepods. February 8, 1982.

EPA SLN No. AL 82 0004. Vertac Chemical Corp. Registration is for Vertac Premerge 3, to be used on peanuts to control Florida beggarweed and sicklepods. February 25, 1982.

EPA SLN No. AL 82 0005. B and W Quality Growers, Inc. Registration is for D.Z.N. Diazinon 50W, to be used on watercress to control cylamen mites. March 16, 1982.

EPA SLN No. AL 82 0006. Mobay Chemical Corp. Registration if for Monitor 4, to be used on cotton to control aphids and thrips (early season), fleahoppers, whiteflies, beet armyworms, cabbage loopers, mites, aphids, and thrips (mid to late season). March 16, 1982.

EPA SLN No. AL 82 0008. Dow Chemical USA. Registration is for Dowfume-100, to be used on soybeans to control lance, spiral, sting, and moderate infestations of cyst and root-knot nematodes. April 14, 1982.

EPA SLN No. AL 82 0009. Dow Chemical USA. Registration is for Dowfume-90, to be used on soybeans to control lance, spiral, sting, and moderate infestations of cyst and root-knot nematodes. April 14, 1982.

EPA SLN No. AL 82 0010. Dow Chemical USA. Registration is for

Dowfume-85, to be used on soybeans to control lance, spiral, sting, and moderate infestations of cyst and root-knot nematodes. April 14, 1982.

EPA SLN No. AL 82 0011. Mobay Chemical Corp. Registration is for Nemacur 15% GR, to be used on soybeans to control nematodes. April 19, 1982.

EPA SLN No. AL 82 0012. Mobay Chemical Corp. Registration is for Nemacur-3, to be used on soybeans to control nematodes. April 19, 1982.

EPA SLN No. AL 82 0013. Great Lakes Chemical Corp. Registration is for Soilbrom-90 to be used on peanuts to control nematodes in sandy soil. April 22, 1982.

EPA SLN No. AL 82 0014. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on grain sorghum to control chinch bugs. April 22, 1982.

EPA SLN No. AL 82 0015. Dow Chemical USA. Registration is for Lorsban 15G, to be used on soybeans to control larvae of lesser cornstalk borers. April 22, 1982.

EPA SLN No. AL 82 0016. ICI Americas Inc. Registration is for Ambush 4E EC, to be used on cotton to control the boll weevil, tobacco budworm, cabbage looper, bollworm, lygus bug, cotton aphid, and whitefly. April 23, 1982.

EPA SLN No. AL 82 0017. American Cyanamid Co. Registration is for Cythion Insecticide-Malathion ULV Concentrate Insecticide, to be used as a ground control of adult mosquitoes. April 23, 1982.

EPA SLN No. AL 82 0018. FMC Corp. Registration is for Furadan 10 GR-Insecticide-Nematicide to be used on soybeans to control nematodes (root-knot, cyst, stunt, ring, sting, spiral, lesion, lance, dagger, and stubby root). April 23, 1982.

EPA SLN No. AL 82 0019. FMC Corp. Registration is for Furadan 15 GR-Insecticide-Nematicide, to be used on soybeans to control nematodes (root-knot, cyst, stunt, ring, sting, spiral, lesion, lance, dagger, and stubby root). April 23, 1982.

Arizona

EPA SLN No. AZ 82 0001. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate Insecticide, to be used on beet tops, collards, kale, mustard greens, parsley, Swiss chard, and turnip greens (tops) to control beet armyworms, cabbage loopers, imported cabbage worms, and diamondbacked moths. January 27, 1982.

EPA SLN No. AZ 82 0002. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate L Insecticide, to be used on beet tops, collards, kale, mustard greens, parsley, Swiss chard, and turnip greens (tops) to control beet armyworms, cabbage loopers, imported cabbage worms, and diamondbacked moths. January 27, 1982.

EPA SLN No. AZ 82 0003. Bruce Church, Inc. Registration is for Prefar 4–E, to be used on bulb onions and garlic to control annual broadleaf weeds, lambsquarters, purslane, palmer's amaranth, annual grasses, jungle rice, watergrass, sprangletop, and canary grass. January 27, 1982.

EPA SLN No. AZ 82 0004. Vertac Chemical Corp. Registration is for Vertac Selective Weed Killer, to be used on onions to control newly emerged London rocket, lambsquarters, mustard, and shepherd's purse. February 3, 1982.

EPA SLN No. AZ 82 0005. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate Insecticide, to be used on endive and escarole to control beet armyworms. April 27, 1982.

EPA SLN No. AZ 82 0006. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate Insecticide, to be used on endive and escarole to control certain insects. April 27, 1982.

EPA SLN No. AZ 82 0007. BASF Wyandotte Corp. Registration is for Basalin Herbicide, to be used on cotton to control grasses and broadleaf weeds. March 31, 1982.

Arkansas

EPA SLN No. AR 82 0001. Burroughs Wellcome Co. Registration is for Wellcome Insecticide Ear Tags, to be used on dairy and beef cattle and calves to control horn flies, face flies, Gulf Coast Ticks, spinose ear ticks, stable flies, and house flies. January 27, 1982.

EPA SLN No. AR 82 0002. Dow Chemical USA. Registration is for Dowfume-100, Dowfume-90, and Dowfume-85, to be used on soybeans at planting to control nematodes including lance, root-knot, spiral, and sting. January 27, 1982.

EPA SLN No. AR 82 0003. Dow Chemical USA. Registration is for N-Serve 24E Nitrogen Stabilizer, to be used on rice to control the nitrification process of rice. January 27, 1982.

EPA SLN No. AR 82 0004. Dow Chemical USA. Registration is for N-Serve 24 Nitrogen Stabilizer, to be used on rice to control the nitrification process of rice. January 27, 1982.

EPA SLN No. AR 82 0005. Mobay Chemical Corp. Registration is for Oftanol 5% GR to be used on turf grasses to control insects. March 9, 1982.

EPA SLN No. AR 82 0006. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans to control nematodes and Mexican bean beetles. March 9, 1982.

EPA SLN No. AR 82 0007. FMC Corp. Registration is for Furadan 10 GR, to be used on soybeans to control nematodes. March 9, 1982.

EPA SLN No. AR 82 0008. Chevron Chemical Co. Registration is for Bolero 8 EC, to be used on rice to control annual grasses and aquatic weeds. March 9, 1982

EPA SLN No. AR 82 0009. BFC Chemicals, Inc. Registration is for Attac 8, to be used on soybeans to control sicklepods. March 24, 1982.

EPA SLN No. AR 82 0010. Red Panther Chemical Co. Registration is for Red Panther Ethylene Dibromide 90, to be used on soybeans to control nematodes including lance, root-knot, spiral, and sting. March 24, 1982.

EPA SLN No. AR 82 0011. Great Lakes Chemical Corp. Registration is for Soilbrom-90, Soilbrom-90EC, and Soilbrom-100, to be used on soybeans to control nematodes including lance, root-knot, spiral, and sting. March 24, 1982.

EPA SLN No. AR 82 0012. Bell Laboratories, Inc. Registration is for P.C.Q. Rat and Mouse Bait, to be used on orchards and groves to control meadow and pine mice and voles. March 24, 1982.

California

EPA SLN No. CA 82 0001. Modoc County Department of Agriculture. Registration is for Sevin Bait 5% (Insecticide), to be used on grapes to control cutworms and grasshoppers; on sorgum to control cutworms and armyworms; on ornamental plants to control grass pests and earwigs; on turf to control grasshoppers; on rangeland to control cutworms, sowbugs, and crickets. January 27, 1982

EPA SLN No. CA 82 0002. Kern County Department of Agriculture. Registration is for Diaznion 14G, to be used on almond orchard floors to control ants. January 15, 1982.

EPA SLN No. CA 82 0003. Olin Corp. Registration is for Terrazole 4 lb. Emulsifiable, to be used on strawberries to control soil-borne diseases. January 15, 1982

EPA SLN No. CA 82 0004. Ciba-Geigy Corp. Registration is for Supracide 2E, to be used on citrus to control California red scale. February 1, 1982.

EPA SLN No. CA 82 0005. Stoller Chemical Co., Inc. Registration is for That Flowable Sulfur, to be used on sugar beets to control powdery mildew. January 27, 1982.

EPA SLN No. CA 82 0006. Stoller Chemical Co., Inc. Registration is for That Big 8 FL Sulfur, to be used on sugar

beets to control powdery mildew. January 27, 1982.

EPA SLN No. CA 82 0007. American Cyanamid Co. Registration is for Cythion Insecticide-Malathion ULV Concentrate Insecticide, to be used on oranges, lemons, grapefruit, limes, tangelos, tangerines, kumquats, and ornamental citrus to control the Mediterranean fruit fly. January 28, 1982.

EPA SLN No. CA 82 0008. American Cyanamid Co. Registration is for Cythion 8E Insecticide, to be used on citrus to control the Mediterranean fruit fly. January 28, 1982.

EPA SLN No. CA 82 0009. Degesch America, Inc. Registration is for Degesch Phostoxin New Coated Tablets-R, to be used on orchards and other non-croplands to control ground squirrels. February 1, 1982.

EPA SLN No. CA 82 0010. Joe Terry Farms. Registration is for Mesurol 75% WP, to be used on peppers grown for seed production to repel birds. February 19, 1982.

EPA SLN No. CA 82 0011. Mobay Chemical Corp. Registration is for Nemacur 3, to be used on non-bearing citrus, deciduous fruit and nut trees, vineyards, and commercial tree and vine nurseries to control nematodes. February 19, 1982.

EPA SLN No. CA 82 0012. Mobay Chemical Corp. Registration is for Nemacur 15% GR, to be used on non-bearing citrus, deciduous fruit and nut trees, vineyards, and commercial tree and vine nurseries to control nematodes. February 19, 1982.

EPA SLN No. CA 82 0013. Helena Chemical Co. Registration is for Omni Supreme Spray (Insecticide-Miticide), to be used on pears, almonds, apricots, peaches, cheerries, nectarines, prunes, and plums to control insects. March 31, 1982.

EPA SLN No. CA 82 0014. Occidental Chemical Co. Registration is for Super 94 Oil, to be used on lemons, grapefruit, and navel and Valencia oranges to control black scale, also brown, red, purple, and yellow, and different kinds of mites. April 5, 1982.

EPA SLN No. CA 82 0016. Monterey County Department of Agriculture. Registration is for Tenoran 50 WP, to be used on onions to control annual weeds. April 9, 1982.

EPA SLN No. CA 82 0017. Santa Clara County Department of Agriculture. Registration is for Rodent Bait Block Chloropacinone Treated Grain/Paraffin (0.005 percent), to be used as a bait block to control Norway rats, roof rats, muskrats, and wood rats. April 13, 1982.

EPA SLN No. CA 82 0018. Santa Clara County Department of Agriculture. Registration is for Rodent Bait Block Diphacinone Treated Grain/Paraffin (0.005 percent), to be used as a bait block to control Norway rats, roof rats, muskrats, and wood rats. April 13, 1982.

EPA SLN No. CA 82 0019. San Benito County Agricultural Commissioner. Registratioin is for Rodent Bait Diphacinone Treated Grain (0.005 percent), to be used to control rodents. April 19, 1982.

EPA SLN No. CA 82 0022. Modoc County Department of Agriculture. Registration is for pocket Gopher Bait Strychnine Treated Grain (2.63%), to be used to control gophers April 19, 1982..

EPA SLN No. CA 82 0023. Modoc County Department of Agriculture. Registration is for Rodent Bait Zinc Phosphide Treated Grain (1.0%), to be used to control rodents. April 19, 1982.

EPA SLN No. CA 82 0024. Ciba-Geigy Corp. Registration is for Ridomil 2E Fungicide, to be used on strawberries to control *Phytophthora cactorum* in nurseries only. April 23, 1982.

EPA SLN No. CA 82 0025. Archem Corp. Registration is for Parapel, to be used on home lawns and yards to control ground squirrels and pocket gophers. April 23, 1982.

EPA SLN No. CA 0028. Rhone-Poulenc Inc. Registration is for Asulox Herbicide, to be used on reforestation areas of red fir, white fir, Jeffrey pine, ponderosa pine, and sugar pine to control western bracken. April 28, 1982.

Connecticut

EPA SLN No. CT 0001. O.M. Scott and Sons. Registration is for Progrow Ornamental Herbicide II, to be used to control weeds in container and field grown ornamentals. January 28, 1982.

EPA SLN No. CT 0002. Shell Chemical Co. Registration is for Bladex 80W Herbicide, to be used on corn to control weeds, grasses, and broadleaf weeds. March 12, 1982.

EPA SLN No. CT 0003. Shell Chemical Co. Registration is for Bladex 4L Herbicide, to be used on corn to control weeds, grasses, and broadleaf weeds. March 12, 1982.

EPA SLN No. CT 82 0004. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles, northern corn rootworms, and nematodes. March 26, 1982.

EPA SLN No. CT 82 0005. FMC Corp. Registration is for Furadan 4 FL, to be used on sweet corn to control the European corn borer. March 26, 1982.

Delaware

EPA SLN No. DE 82 0001. O.M. Scott and Sons. Registration is for Proturf Insecticide 4, to be used on turf grass to control insects. January 12, 1982.

EPA SLN No. DE 82 0002. Rohm and Haas Co. Registration is for Blazer 2S Herbicide, to be used on soybeans to control major weeds, morning glories, cockleburs, and pigweeds. February 8, 1982.

EPA SLN No. DE 82 0003. Bell Laboratories, Inc. Registration is for P.C.O. Rat and Mouse Bait, to be used on orchards and groves to control meadow and pine mice, and voles (*Microtus* spp). March 10, 1982.

EPA SLN No. DE 82 0004. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles, northern corn rootworms, and nematodes. March 12, 1982.

EPA SLN No. DE 82 0005. FMC Corp. Registration is for Furadan 4 FL, to be used on sweet corn to control the European corn borer. March 12, 1982.

EPA SLN No. DE 82 0006. E. I. du Pont de Nemours and Co. Registration is for Du Pont Sinbar Weed Killer, to be used on alfalfa to control weeds. March 30, 1982.

EPA SLN No. DE 82 0007. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on alfalfa to control weeds between cuttings. April 30, 1982.

Florida

EPA SLN No. FL 82 0001. Kocide Chemical Corp. Registration is for Koplex, to to used on flowing rivers, streams, and canals to control *Hydrilla verticillata*. February 15, 1982.

EPA SLN No. FL 82 0002. Polk County Environmental Services. Registration is for Dowpon M, to be used on drainage ditches to control cattails and perennial grasses. February 15, 1982.

EPA SLN No. FL 82 0003. Ciba-Geigy Corp. Registration is for Evik 80W, to be used on Florida grapefruit and oranges to control guineagrass, broadleaf panicum, and signalgrass. February 15, 1982.

EPA SLN No. FL 82 0004. Pasco Products Co. Registration is for Suncoast Weed Control plus Lawn Fertilizer, to be used on St. Augustine type lawns, centipedegrass, and zoysiagrass only, to control weeds. February 15, 1982.

EPA SLN No. FL 82 0005. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. February 16, 1982.

EPA SLN No. FL 82 0006. Pasco Products Co. Registration is for Suncoast Weed Control plus Lawn Fertilizer, to be used on Bahia type lawns to control weeds. February 16, 1982.

EPA SLN No. FL 82 0007. Pasco Products Co. Registration is for P.O.C. Weed Control plus Lawn Fertilizer, to be

used on Bahia type lawns to control broadleaf weeds. February 16, 1982.

EPA SLN No. FL 82 0008. Pasco Products Co. Registration is for P.P.C. Weed Control plus Lawn Fertilizer, to be used on St. Augustine type lawns to control weeds. February 16, 1982.

EPA SLN No. FL 82 0009. Dow Chemical USA. Registration is for Dowfume-100, Dowfume-90, and Dowfune-85, to be used on soybeans at planting to control nematodes including lance, root-knot, spiral, and sting. February 19, 1982.

EPA SLN No. FL 82 0010. Great Lakes Chemical Corp. Registration is for Brom-O-Gas (2%), Brom-O-Gas (1%), Brom-O-Gas (.25%), Terr-O-Gas 98, and Brom-O-Gas (2%), to be used for eggplants, muskmelons, broccoli, cauliflower, and peppers as a preplant treatment in soil. February 19, 1982.

EPA SLN No. FL 82 0011. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on Bahia grass pastures to kill emerged little barley. February 19, 1982.

EPA SLN No. FL 82 0012. Burroughs Wellcome Co. Registration is for Atroban WP, to be used on horse, beef, dairy, swine, sheep, and poultry premises to control house flies, stable flies, and *Fannia* spp. February 19, 1982.

EPA SLN No. FL 82 0013. Chevron Chemical Co. Registration is for Monitor 4 Spray, to be used on Boston, bibb, romaine, and leaf lettuce to control aphids, cabbage loopers, diamondback moth larvae, granulate cutworms, and leafminers. March 9, 1982.

EPA SLN No. FL 82 0014. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lannate Insecticide, to be used on radishes to control beet armyworm. March 9, 1982.

EPA SLN No. FL 82 0015. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lannate L Insecticide, to be used on radishes to control armyworms. March 9, 1982.

EPA SLN No. FL 82 0016. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control wireworms, lesser cornstalk borers, corn stalk weevils, and corn earworms. March 9, 1982.

EPA SLN No. FL 82 0018. Florida Department of Natural Resources. Registration is for Weeder 64, to be used on ponds, lakes, rivers, drainage and flood control canals, ditches, reservoirs, and bayous to control Eurasian watermilfoil. March 19, 1982.

EPA SLN No. FL 82 0019. Red Panther Chemical Co. Registration is for Red Panther Ethylene Dibromide 90, to be used on soybeans to control nematodes including lance, root-knot, spiral, and sting. March 25, 1982.

EPA SLN No. FL 82 0020. Soil Chemicals Corp. Registration is for Pic Brom 33, to be used on peppers to control *Verticillium* wilt, nematodes, and weeds. March 26, 1982.

EPA SLN No. FL 82 0021. Mineral Research and Development Corp. Registration is for Copper-Count-N, to be used on limes to control greasy spot, and on mangoes and avocados to control anthracnose. April 5, 1982.

EPA SLN No. FL 82 0022. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control wireworms, lesser cornstalk borers, cornstalk weevils, corn earworms in whorls, and banded cucumber beetles. April 28, 1982.

Georgia

EPA SLN No. GA 82 0001. Helena Chemical Co. Registration is for Helena Dimethoate 267 Systemic Insecticide, to be used on pecans to control aphids, mites, leafhoppers, and leafminers. January 15, 1982.

EPA SLN No. GA 82 0002. Ameribrom, Inc. Registration is for Edabrom 85, to be used on soybeans to control root knot, lesion, lance, soybean cyst, sting, and spiral nematodes. February 22, 1982

EPA SLN No. GA 82 0003. Philips Roxane, Inc. Registration is for Overtime Long Lasting Livestock and Premise Spray, to be used on horse, beef, dairy, swine, pet, and poultry premises to control house flies, face flies, stable flies and false stable flies. March 11, 1982.

EPA SLN No. GA 82 0004. O.M. Scott and Sons Co. Registration is for Progrow Ornamental Herbicide II, to be used on container- and field-grown ornamentals to control weeds. January 27, 1982.

EPA SLN No. GA 82 0005. Olin Corp. Registration is for Terraclor 2N EC, to be used on peanuts to control southern blight. April 12, 1982.

EPA SLN No. GA 82 0006. Chevron Chemical Co. Registration is for Orthene Tobacco Insect Spray, to be used on tobacco to control insects. March 9, 1982.

EPA SLN No. GA 82 0007. Dow Chemical USA. Registration is for Dowfune W–85, Dowfune W–90, and Dowfune W–100, to be used on peanuts as in an-plant application to control nematodes including root-knot. April 9, 1982.

EPA SLN No. GA 82 0009. ICI Americas Inc. Registration is for Ambush 4 Insecticide Oil Concentrate, to be used on cotton to control the boll weevil, tobacco budworm, cabbage looper, bollworm, lygus bug, cotton aphid, and whitefly. April 20, 1982.

EPA SLN No. GA 82 0011. Helena Chemical Co. Registration is for Helena MSMA, to be used on cotton as a postemergent application to control weeds. April 27, 1982.

EPA SLN No. GA 82 0012. Helena Chemical Co. Registration is for Liquid DSMA, to be used on cotton to control weeds. April 27, 1982.

Idaho

EPA SLN No. ID 82 0002. Velsicol Chemical Corp. Registration is for Ramik Brown Rodenticide, to be used on small grains to control meadow voles. January 29, 1982.

EPA SLN No. ID 82 0003. U.S. Fish and Wildlife Service. Registration is for Zinc Phosphide Rodenticide for Controlling Jack Rabbits, to be used on haystacks and field borders to control black-tailed jackrabbits. February 23, 1982.

EPA SLN No. ID 82 0004. Wilbur-Ellis Co. Registration is for Red-Top Contact Weedkiller, to be used on forestry as a brush desiccant. February 25, 1982.

EPA SLN No. ID 82 0005. Sandoz Inc. Registration is for Solicam 80WP, to be used on cherries, plums, prunes, peaches, and non-bearing apple and pear trees to control various grasses and broadleaf weeds. February 22, 1982.

EPA SLN No. ID 82 0007. Elanco Products Co. Registration is for Treflan EC, to be used on radishes grown for seed to control weeds. March 30, 1982.

EPA SLN No. ID 82 0008. Elanco Products Co. Registration is for Treflan MT.F., to be used on radishes grown for seed to control weeds. March 30, 1982.

EPA SLN No. ID 82 0009. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae, hyperodes weevils, billbugs, chinch bugs, and sod webworm larvae. April 16, 1982.

EPA SLN No. ID 82 0010. Mobay Chemical Corp. Registration is for Sencor DF/Sencor Sprayule, to be used on lentils and dry field peas to control broadleaf weeds. April 28, 1982.

Illinois

EPA SLN No. IL 82 0001. Stauffer Chemical Co. Registration is for Eradicane 6.7–E Selective Herbicide, to be used on corn (field, silage, and sweet) for wild proso millet suppression. January 4, 1982.

EPA SLN No. IL 82 0002. FMC Corp. Registration is for Furadan 4F Insecticide, to be used on alfalfa to control potato leafhoppers, pill bugs, crickets, and grasshoppers. January 4, 1982.

EPA SLN No. IL 82 0003. Mobay Chemical Corp. Registration is for Nemacur 3 to be used on deciduous fruit trees (apple, peach, and cherry) to

control lesion and dagger nematodes. January 22, 1982.

EPA SLN No. IL 82 0004. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15% GR Aldicarb Pesticide, to be used on soybeans at planting to control nematodes. April 9, 1982.

Indiana

EPA SLN No. IN 82 0001. Petrolite Corp. Registration is for X-Cide 133 Industrial Bactericide, to be used in gas storage and transmission systems as an industrial bactericide. February 3, 1982.

EPA SLN No. IN 82 0002. Burroughs Wellcome Co. Registration is for Wellcome Insecticide Ear Tags, to be used on dairy and beef cattle and calves to control horn flies, face flies, Gulf Coast ticks, and spinose ear ticks. February 3, 1982.

EPA SLN No. IN 82 0003. State Chemist, Department of Biochemistry, P:urdue University. Registration is for Proturf Insecticide 4, to be used on fairway and putting green turf to control white grubs. February 3, 1982.

EPA SLN No. IN 82 0004. E.I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/ Nematicide, to be used on cucurbits to control nematodes. February 24, 1982.

EPA SLN No. IN 82 0005. Vertac Chemical Corp. Registration is for Premerge 3 Dinitro Amine Herbicide, to be used on field corn as a possible enhancement of grain yields. February 24, 1982.

EPA SLN No. IN 82 0006. Thompson-Hayward Chemical Co. Registration is for PCO Lindane E–1, to be used on existing structures to control wood-infesting beetles, *Lyctidae, Anobiidae,* and *Cerambycidae.* March 17, 1982.

EPA SLN No. IN 82 0007. Residex Corp. Registration is for Residex Lindane 20% Emulsifiable, to be used on homes, barns, and other existing structures (wood) to control beetles. March 17, 1982.

EPA SLN No. IN 82 0008. Rohm and Haas Co. Registration is for Goal 2E Herbicide, to be used on peppermint and spearmint fields to control weeds. March 17, 1982.

EPA SLN No. IN 82 0011. Rohm and Haas Co. Registration is for Blazer 2S Herbicide, to be used on soybeans for postemergence weed control. April 22, 1982.

Iowa

EPA SLN No. IA 82 0001. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on lawn and turf to control insects. February 26, 1982.

Kansas

EPA SLN No. KS 82 0001. Monsanto Co. Registration is for Roundup, to be used on grain sorghum to control weeds. March 22, 1982.

EPA SLN No. KS 82 0002. Shell Chemical Co. Registration is for Bladex 80W Herbicide, to be used on field corn or grain sorghum to control weeds. April 1, 1982.

EPA SLN No. KS 82 0003. Rohm and Haas Co. Registration is for Blazer 2S Herbicide, to used on soybeans to control weeds. April 5, 1982.

EPA SLN No. KS 82 0004. Platte Chemical Co. Registration is for Clean Crop Formulation 60 4# Amine 2,4–D, to be used on pastures, rangeland, and non-croplands to control musk thistles. April 15, 1982.

EPA SLN No. KS 82 0005. Bell Laboratories, Inc. Registration is for P.C.Q. Rat and Mouse Bait, to be used in orchards and groves to control meadow and pine mice. April 22, 1982.

EPA SLN No. KS 82 0006. Mobay Chemical Corp. Registration is for Amaze 20% GR, to be used on corn (field, sweet, and pop) to control nematodes. April 22, 1982.

Louisiana

EPA SLN No. LA 82 0001. Dow Chemical USA. Registration is for Dowfume W–100 Full Strength Soil Fumigant to be used on soybeans at planting or in preplant application to control nematodes including lance, lesion, root-knot, spiral, and sting. February 2, 1982.

EPA SLN No. LA 82 0002. Dow Chemical USA. Registration is for Dowfume W–90 High Strength Soil Fumigant, to be used on soybeans at planting or in preplant application to control nematodes including lance, lesion, root-knot, spiral, and sting. February 2, 1982.

EPA SLN No. LA 82 0003. Dow Chemical USA. Registration is for Dowfume W–85 High Strength Soil Fumigant, to be used on soybeans at planting or in preplant application to control nematodes including lance, lesion, root-knot, spiral, and sting. February 2, 1982.

EPA SLN No. LA 82 0004. Louisiana Department of Agriculture. Registration is for Progrow Ornamental Herbicide II, to be used on container and field grown ornamentals to control weeds. February 9, 1982.

EPA SLN No. LA 82 0005. Chevron Chemical Co. Registration is for Bolero 8 EC, to be used on seedling rice to control weeds. March 12, 1982.

EPA SLN No. LA 82 0006. Cotton States Chemical Co., Inc. Registration is for Ketokil No. 52, be used on cotton to control boll worms and boll weevils. March 19, 1982.

EPA SLN No. LA 82 0007. ICI Amercias Inc. Registration is for Ambush 4E EC, to be used on cotton to control boll weevils, tobacco budworms, cabbage loopers, bollworms, lygus bugs, cotton aphids, and whiteflies. March 19, 1982.

EPA SLN No. LA 82 0008. American Cyanamid Co. Registration is for Cythion Insecticide-Malathion ULV Concentrate, to be used on cotton to control boll weevils. March 19, 1982.

EPA SLN No. LA 82 0009. Stauffer Chemical Co. Registration is for Ordram 10–G, to be used on rice for suppression of sprangletop and barnyardgrass, post-flood and post-emergence application. March 19, 1982.

EPA SLN No. LA 82 0010. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15G Aldicarb Pesticide, to be used on sugarcane (stubble or ratoon cane) to control nematodes. March 24, 1982.

EPA SLN No. LA 82 0011. FMC Corp. Registration is for Furadan 10 GR, to be used on soybeans to control nematodes. April 6, 1982.

EPA SLN No. LA 82 0012. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans to control nematodes. April 6, 1982.

EPA SLN No. LA 82 0013. Philips Roxane, Inc. Registration is for Bioceutic Overtime L/P Long Acting Livestock and Premise Insecticide, to be used on livestock and poultry as an insecticide. April 26, 1982.

EPA SLN No. LA 82 0014. Philips Roxane, Inc. Registration is for Anchor Permectrin Long Lasting Livestock and Premise Spray, to be used on livestock and poultry as an insecticide. April 26, 1982.

EPA SLN No. LA 82 0015. Citrus Lands of Louisiana, Inc. Registration is for Roundup, to be used in pastures to control weeds. April 27, 1982.

Maine

EPA SLN No. ME 82 0001. Vertac Chemical Corp. Registration is for Vertac General Weed Killer, to be used for preharvest desiccation of potato vines. February 10, 1982.

EPA SLN No. ME 82 0002. Dow Chemical USA. Registration is for Garlon 3A Herbicide, to be used on industrial sites, non-crop areas, and at forest preparation sites to control woody plants and broadleaf weeds. April 16, 1982.

EPA SLN No. ME 82 0003. Dow Chemical USA. Registration is for Garlon 4 Herbicide, to be used on

industrial sites, non-crop areas, and at forest preparation sites to control woody plants and broadleaf weeds. April 16, 1982.

EPA SLN No. ME 82 0004. Hopkins Agricultural Chemical Co. Registration is for Hopkins Quintar 5F, to be used on apples to control scab. April 16, 1982.

EPA SLN No. ME 82 0005. Chevron Chemical Co. Registration is for Orthene-Specialty Concentrate, to be used for the suppression of larval populations of spruce budworm. April 16, 1982.

Maryland

EPA SLN No. MD 82 0001. Monsanto Co. Registration is for Roundup, to be used on apple orchards to control annual and perennial weeds. Janary 26, 1982.

EPA SLN No. MD 82 0002. O.M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on cool season grasses only to control sod webworms, chinch bugs, mole crickets, and hyperodes weevils. January 29, 1982.

EPA SLN No. MD 82 0003. Mobay Chemical Corp. Registration is for Nemacur-Dasanit 2+4 Spray Concentrate, to be used on tobacco to control root-knot nematodes and wireworms. March 15, 1982.

EPA SLN No. MD 82 0004. Rhom and Haas Co. Registration is for Blazer 2S Herbicide, to be used on soybeans for post-emergence weed control. March 15, 1982.

EPA SLN No. MD 82 0005. Mobay Chemical Corp. Registration is for Nemacur 3, to be used on tobacco to control nematodes and wireworms. March 15, 1982.

EPA SLN No. MD 82 0006. B and W Quality Growers, Inc. Registration is for D.Z.N. Diazinon 50W, to be used on watercress to control cyclamen mites. March 15, 1982.

EPA SLN No. MD 82 0007. FMC Corp. Registration is for Furadan 4 FL, to be used on sweet corn to control European corn borers. April 26, 1982.

EPA SLN No. MD 82 0008. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles, northern corn rootworms, and nematodes. April 26, 1982.

EPA SLN No. MD 82 0009. E.I. du Pont de Nemours and Co. Registration is for Du Pont Sinbar Weed Killer, to be used on alfalfa to control certain weeds. April 26, 1982.

Michigan

EPA SLN No. MI 82 0001. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on non-bearing peach, nectarine, apple, apricot, cherry, and plum trees to control nematodes. January 19, 1982.

EPA SLN No. MI 82 0002. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on non-bearing peach, nectarine, apple, apricot, cherry, and plum trees to control nematodes. January 19, 1982.

EPA SLN No. MI 82 0003. Michigan Department of Agriculture. Registration is for Progrow Ornamental Herbicide II, to be used on container and field grown ornamentals to control weeds. Janary 19, 1982.

EPA SLN No. MI 82 0004. Michigan Department of Agriculture. Registration is for Proturf Insecticide 4, to be used on cool season grasses only to control sod webworms, chinch bugs, mole crickets, and hyperodes weevils. February 3, 1982.

EPA SLN No. MI 82 0005. E.I. du Pont de Nemours and Co. Registration is for Du Pont Benlate Fungicide, to be used on grapes to control the eutypa dieback. February 9, 1982.

EPA SLN No. MI 82 0006. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on field corn to control corn rootworm larvae at cultivation. February 16, 1982.

EPA SLN No. MI 82 0007. Olin Corp. Registration is for Terraclor 75% WP, to be used on beans (snap and dry) to prevent white mold. February 16, 1982.

EPA SLN No. MI 82 0008. Dow Chemical USA. Registration is for Lorsban 15G GR Insecticide, to be used on onions (dry bulb) to control onion maggots April 21, 1982.

EPA SLN No. MI 82 0009. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on onions (dry bulb) to control onion maggots. April 21, 1982.

EPA SLN No. MI 82 0010. FMC Corp. Registration is for Furadan 4F Insecticide, to be used on sweet corn to control the corn earworm and European corn borer. April 21, 1982.

EPA SLN No. MI 82 0011. FMC Corp. Registration is for Furadan 10G Insecticide/Nematicide, to be used on sweet corn to control flea beetles, corn rootworms, and nematodes. April 21, 1982.

EPA SLN No. MI 82 0012. Union Carbide Agricultural Products Co., Inc. Registration is for Temick 15G Aldicarb Pesticide, to be used on dry beans at planting to control seedcorn maggots. April 21, 1982.

EPA SLN No. MI 82 0013. FMC Corp. Registration is for Furadan 10G-Insecticide/Nematicide to be used on cucurbits (cucumbers, melons, squash, and pumpkins) to control nematodes and cucumber beetles. April 22, 1982.

EPA SLN No. MI 82 0014. Miller Chemical and Fertilizer Corp. Registration is for Pratt Oxamyl 10% GR, to be used on potatoes to control root lesion and northern root-knot nematodes, and on carrots to control northern root-knot nematodes. April 23, 1982.

Minnesota

EPA SLN No. MM 82 0001. Clarke Outdoor Spraying Co. Registration is for 1% Skeeter Abate, to be used on marsh lands, margins of streams, and intertidal zones of sandy beaches to control mosquito and midge larvae. February 12, 1982.

EPA SLN No. MN 82 0002. Dow Chemical USA. Registration is for Tordon 22K Herbicide, to be used on rangelands, permanent grass pastures, spring barley and oats, and spring and winter wheat to control broadleaf weeds. February 12, 1982.

EPA SLN No. MN 82 0003. Dow Chemical USA. Registration is for Tordon 2K Pellets Herbicide, to be used on rangeland, forests, and permanent grass pastures to control susceptible broadleaf weeds and woody plants. February 12, 1982.

EPA SLN No. MN 82 0004. Agsco, Inc. Registration is for Agsco Blitex 80 MN, to be used on beans (dry) to control rust. March 11, 1982.

EPA SLN No. MN 82 0005. FMC Corp. Registration is for Furadan 10 GR, to be used on sugar beets to control sugar beet root maggots. April 8, 1982.

EPA SLN No. MN 82 0006. FMC Corp. Registration is for Furadan 4 FL, to be used on pure seeded alfalfa to control lesion nematodes and *Pratylenchus penetrans*. April 8, 1982.

EPA SLN No. MN 82 0007. Philips Roxane, Inc. Registration is for Golden Sun Secticide-10, to be used as a livestock and poultry long-lasting barn and premise fly spray. April 8, 1982.

Mississippi

EPA SLN No. MS 82 0001. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans to control nematodes and Mexican bean beetles. February 10, 1982.

EPA SLN No. MS 82 0002. FMC Corp. Registration is for Furadan 10 GR, to be used on soybeans to control nematodes at planting time. Febraury 10, 1982.

EPA SLN No. MS 82 0003. Olin Corp. Registration is for Magnum Agricultural Chlorinator, to be used on sweet potatoes to reduce the spread of bacterial wilt and root rot. February 17, 1982.

EPA SLN No. MS 82 0004. Chevron Chemical Co. Registration is for Bolero 8

EC, to be used on rice to control annual grasses and aquatic weeds, March 24, 1982.

EPA SLN No. MS 82 0005. Red Panther Chemical Co. Registration is for Red Panther Ethylene Dibromide 90, to be used on soybeans to control nematodes including lance, root-knot, spiral, and sting. April 2, 1982.

EPA SLN No. MS 82 0006. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15% GR Aldicarb Pesticide, to be used on soybeans to control nematodes. April 2, 1982.

EPA SLN No. MS 82 0007. Dow Chemical USA. Registration is for N-Serve 24E Nitrogen Stabilizer, to be used on rice to control the nitrification process on rice. April 5, 1982.

EPA SLN No. MS 82 0008. Dow Chemical USA. Registration is for N-Serve 24 Nitrogen Stabilizer, to be used on rice to control the nitrification process on rice. April 5, 1982.

EPA SLN No. MS 82 0009. ICI Americas Inc. Registration is for Ambush 4E-EC, to be used on cotton to control boll weevils, tobacco budworms, cabbage loopers, bollworms, lygus bugs, cotton aphids, and whiteflies. April 2, 1982.

EPA SLN No. MS 82 0010. Dow Chemical USA. Registration is for Dowfume W-85, to be used as an at-plant application on cotton to control nematodes. April 2, 1982.

EPA SLN No. MS 82 0011. Dow Chemical USA. Registration is for Dowfume W-90, to be used as an at-plant application on cotton to control nematodes. April 2, 1982.

EPA SLN No. MS 82 0012. Dow Chemical USA. Registration is for Dowfume W-100, to be used on cotton to control nematodes. April 2, 1982.

EPA SLN No. MS 82 0014. Dow Chemical USA. Registration is for Dowfume W-90, to be used as an at-plant application on peanuts to control nematodes. April 2, 1982.

EPA SLN No. MS 82 0015. Dow Chemical USA. Registration is for Dowfume W-100, to be used as an at-plant application on peanuts to control nematodes. April 2, 1982.

Missouri

EPA SLN No. MO 82 0001. O. M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on cool season grasses only to control sod webworms, chinch bugs, mole crickets, and hyperodes weevils. January 7, 1982.

EPA SLN No. MO 82 0002. Fairfield American Corp. Registration is for Permanone Tick Repellent, to be used on outer clothing to control ticks, chiggers, and mosquitoes. (CUP). January 11, 1982.

EPA SLN No. MO 82 0003. Philips Roxane, Inc. Registration is for Golden Sun Fly-Ban Concentrate, to be used as a livestock and poultry long-lasting barn and premise fly spray. February 1, 1982.

EPA SLN No. MO 82 0004. Dow Chemical USA. Registration is for Dowfume W-100 Full Strength Soil Fumigant, to be used on soybeans to control nematodes including lance, lesion, root-knot, spiral, and sting. February 10, 1982.

EPA SLN No. MO 82 0005. Dow Chemical USA. Registration is for Dowfume W-90 High-Strength Soil Fumigant, to be used on soybeans to control nematodes including lance, lesion, root-knot, spiral, and sting. February 10, 1982.

EPA SLN No. MO 82 0006. Dow Chemical USA. Registration is for Dowfume W-85 High Strength Soil Fumigant, to be used on soybeans to control nematodes including lance, lesion, root-knot, spiral, and sting. February 10, 1982.

EPA SLN No. MO 82 0007. Vertac Chemical Corp. Registration is for Vertac Premerge 3 Dinitro-Amine Herbicide, to be used on many crops, including peas, beans, and soybeans, to control broadleaf weeds. April 25, 1982.

EPA SLN No. MO 82 0009. Rohm and Haas Co. Registration is for Dithane M-22 Special, to be used on field grown tobacco to control blue mold. March 25, 1982.

EPA SLN No. MO 82 0010. Rohm and Haas Co. Registration is for Dithane M-45, to be used on field grown tobacco to control blue mold. March 25, 1982.

EPA SLN No. MO 82 0011. Rohm and Haas Co. Registration is for Dithane Z-78, to be used on field grown tobacco to control blue mold. March 25, 1982.

EPA SLN No. MO 82 0012. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans to control nematodes and Mexican bean beetles (larvae). March 29, 1982.

EPA SLN No. MO 82 0013. FMC Corp. Registration is for Furadan 10 GR, to be used on soybeans to control nematodes and Mexican bean beetles. March 29, 1982.

EPA SLN No. MO 82 0014. Monsanto Co. Registration is for Roundup, to be used on grain sorghum to control certain weeds. April 5, 1982.

Montana

EPA SLN No. MT 82 0001. The Upjohn Co. Registration is for Botran 75W Fungicide, to control *Botrytis* disease in container, bare root, and greenhouse-grown conifer nursery stock. February 25, 1982.

EPA SLN No. MT 82 0002. Union Carbide Agricultural Products Co., Inc. Registration is for Brominal Broadleaf Herbicide, to be used on wheat and barley to control weeds. March 9, 1982.

EPA SLN No. MT 82 0003. Dow Chemical USA. Registration is for Dowpon M Grass Killer, to be used on Christmas trees to control grass. March 12, 1982.

EPA SLN No. MT 82 0004. Chevron Chemical Co. Registration is for Orthene Forest Spray, to be used on range and pasture grass and wheat to control grasshoppers. March 25, 1982.

EPA SLN No. MT 82 0005. Mobay Chemical Corp. Registration is for Sencor 4, to be used on lentils to control common lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 6, 1982.

EPA SLN No. MT 82 0006. Mobay Chemical Corp. Registration is for Sencor 50% WP, to be used on lentils to control common lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 6, 1982.

EPA SLN No. MT 82 0007. Mobay Chemical Corp. Registration is for Sencor DF/Sencor Sprayule, to be used on lentils to control common lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 6, 1982.

Nebraska

EPA SLN No. NE 82 0001. Dow Chemical USA. Registration is for Lorsban 15G GR Insecticide, to be used on field corn and popcorn to control European corn borers. February 1, 1982.

EPA SLN No. NE 82 0002. Shell Oil Co. Registration is for Bladex Herbicide, to be used on corn to control grasses and broadleaf weeds. March 17, 1982.

EPA SLN No. NE 82 0003. Shell Chemical Co. Registration is for Bladex Herbicide, to be used on corn to control grasses and broadleaf weeds. March 16, 1982.

EPA SLN No. NE 82 0004. Philips Roxane, Inc. Registration is for Golden Sun Insecticide-10, to be used as a barn and premise fly spray for beef cattle, dairy cattle, horses, sheep, swine, pets, and poultry. March 17, 1982.

EPA SLN No. NE 82 0005. Shell Chemical Co. Registration is for Shell Bladex 80W, to be used on corn to control grasses and broadleaf weeds. March 17, 1982.

EPA SLN No. NE 82 0006. Shell Chemical Co. Registration is for Shell Bladex 4L, to be used on corn to control grasses and broadleaf weeds. March 17, 1982.

EPA SLN No. NE 82 0007. Burroughs Wellcome Co. Registration is for Wellcome Insecticide Ear Tag, to be used on dairy and beef cattle and calves to control horn flies, face flies, Gulf Coast ticks, and spinose ear ticks. March 17, 1982.

EPA SLN No. NE 82 0008. Shell Chemical Co. Registration is for Shell Bladex 80W, to be used on field corn or grain sorghum to control weeds. March 17, 1982.

EPA SLN No. NE 82 0009. Monsanto Co. Registration is for Roundup, Herbicide, to be used on sorghum (milo) to control weeds. March 17, 1982.

EPA SLN No. NE 82 0012. Mobay Chemical Corp. Registration is for Amaze 20% GR, to be used on corn (field, sweet, and pop) to control nematodes. March 17, 1982.

Nevada

EPA SLN No. NV 82 0001. J. R. Simplot Co. Registration is for Sim-Tec 0.50-Potato Seed Treater, to be used on potatoes to control *Fusarium* decay. January 7, 1982.

EPA SLN No. NV 82 0008. FMC Corp. Registration is for Diazinon 3 Dust, to be used on household pests to control resistant and non-resistant cockroaches, ants, silverfish, carpet beetles, spiders, and scorpions. April 14, 1982.

New Hampshire

EPA SLN No. NH 82 0001. Hopkins Agricultural Chemical Co. Registration is for Hopkins Quintar 5F, to be used on apples to control scab. February 24, 1982.

EPA SLN No. NH 82 0002. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. March 30, 1982.

New Jersey

EPA SLN No. NJ 82 0001. O. M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on cool season grasses only to control sod webworms, chinch bugs, mole crickets, and hyperodes weevils. January 28, 1982.

EPA SLN No. NJ 82 0002. FMC Corp. Registration is for Furadan 4 Fl, to be used on sweet corn to control European corn borers. March 9, 1982.

EPA SLN No. NJ 82 0003. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles, northern corn rootworms, and menematodes. March 9, 1982.

EPA SLN No. NJ 82 0004. Chevron Chemical Co. Registration is for Orthocide 50 Wettable and Orthocide 80 Wettable, to be used on blueberries to control anthracnose fruit rot and *Botrytis* gray mold. March 29 1982.

EPA SLN No. NJ 82 0005. Ciba-Geigy Corp. Registration is for Supracide 2E Insecticide-Miticide, to be used as a prebloom application on apples to control San Jose scale and rosy apple aphids. April 13, 1982.

EPA SLN No. NJ 82 0006. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on onions to control maggots (dry bulb). April 16, 1982.

EPA SLN No. NJ 82 0007. Dow Chemical USA. Registration is for Lorsban 15G GR Insecticide, to be used on onions to control maggots, (dry bulb). April 16, 1982.

New Mexico

EPA SLN No. NM 82 0001. T.H. Agriculture and Nutrition Co., Inc. Registration is for DED-Weed Sulvamine, to be used on pasture, rangeland, and non-crop fallow land to control weeds. February 15, 1982.

EPA SLN No. NM 82 0002. Dow Chemical USA. Registration is for Grazon PC Herbicide, to be used on rangeland and permanent grass pastures to control broadleaf weeds. February 23, 1982.

EPA SLN No. NM 82 0003. Dow Chemical USA. Registration is for Grazon P+D Herbicide, to be used on rangeland and permanent grass pastures to control weeds. February 23, 1982.

EPA SLN No. NM 82 0004. Pennwalt Corp. Registration is for Penncap-M Insecticide, to be used on wheat to control armyworms, greenbugs, grasshoppers, leafhoppers, and aphids. January 25, 1982.

EPA SLN No. NM 82 0005. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control tansy mustard. February 16, 1982.

EPA SLN No. NM 82 0006. Bell Laboratories, Inc. Registration is for P.C.Q. Rat and Mouse Bait, to be used in orchards and groves to control pine and meadow mice. March 25, 1982.

EPA SLN No. NM 82 0007. ICI Americas Inc. Registration is for Ambush 4E-EC, to be used on cotton to control bollworms, budworms, pink bollworms, lygus bugs, cabbage loopers, cotton leaf perforators, boll weevils, cotton fleahoppers, whiteflies, and cotton aphids. March 9, 1982.

EPA SLN No. NM 82 0008. Mobay Chemical Corp. Registration is for Monitor 4 to be used on peppers to control green peach aphids, leafminers, thrips, and flea beetles. March 22, 1982.

EPA SLN No. NM 82 0009. Mobay Chemical Corp. Registration is for Guthion 2 FL, to be used on alfalfa to control alfalfa weevils, leafhoppers, mites, Egyptian alfalfa weevils, alfalfa plant bugs, fleahoppers, grasshoppers, lygus bugs, and spittlebugs. April 7, 1982.

EPA SLN No. NM 82 00010. Monsanto Co. Registration is for Roundup, to be used on grain sorghum to control weeds. March 29, 1982.

EPA SLN No. NM 82 00011. Mobay Chemical Corp. Registration is for Bayleton 50% WP, to be used on nonbearing apple trees to control powdery mildew. April 14, 1982.

EPA SLN No. NM 82 00013. ICI Americas Inc. Registration is for Gramoxone Paraguat Herbicide, to be used on alfalfa to control tansy mustard. April 30, 1982.

New York

EPA SLN No. NY 82 0001. Ciba-Geigy Corp. Registration is for Evik 80W Herbicide, to be used on potatoes for vine desiccation. March 5, 1982.

EPA SLN No. NY 82 0002. Burroughs Wellcome Co. Registration is for atroban Cattle Ear Tags, to be used on dairy and beef cattle and calves to control horn flies, face flies, Gulf Coast ticks, spinose ear ticks, stable flies, and houseflies. March 22, 1982.

EPA SLN No. NY 82 0003. T-Tex Corp. Registration is for Gardstar, to be used on beef cattle, calves, and on dairy cattle including lactating dairy cattle to control horn flies, face flies, Gulf Coast ticks, spinose ear ticks, stable flies, and houseflies. March 22, 1982.

EPA SLN No. NY 82 0004. O.M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on golf course fairways and putting greens to control insects. March 24, 1982.

EPA SLN No. NY 82 0005. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles, northern corn rootworms, and nematodes. April 7, 1982.

EPA SLN No. NY 82 0006. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on onions (dry bulb) to control maggots. April 16, 1982.

EPA SLN No. NY 82 0007. Dow Chemical USA. Registration is for Lorsban 15G GR Insecticide, to be used on onions (dry bulb) to control maggots. April 16, 1982.

EPA SLN No. NY 82 0008. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control insects. April 23, 1982.

North Carolina

EPA SLN No. NC 82 0001. North Carolina Department of Agriculture. Registration is for Progrow Ornamental Herbicide II, to be used on container and field-grown ornamentals to control

grassy weeds and broadleaf weeds. February 9, 1982.

EPA SLN No. NC 82 0002. Dow Chemical USA. Registration is for Dowfume-100, Dowfume-90, and Dowfume-85, to be used on soybeans to control certain nematodes including root-knot, lesion, sting, lance, and dagger. February 15, 1982.

EPA SLN No. NC 82 0003. Ameribrom, Inc. Registration is for Edabrom 85, to be used on soybeans to control certain nematodes. February 23, 1982.

EPA SLN No. NC 82 0004. Vertac Chemical Corp. Registration is for Vertac Premerge 3 Dinitro Amine Herbicide, to be used on peanuts to control broadleaf weeds. March 5, 1982.

EPA SLN No. NC 82 0005. Hess and Clark, Inc. Registration is for Insectrin EC, to be used on livestock premises to control flies. March 5, 1982.

EPA SLN No. NC 82 0006. Chevron Chemical Co. Registration is for Orthene Tobacco Insect Spray, to be used on tobacco to control flea beetles. March 19, 1982.

EPA SLN No. NC 82 0007. Union Carbide Agriculture Products Co., Inc. Registration is for Ethrel Plus Sevin Tank Mixture, to be used for thinning spur "Delicious" apples. March 19, 1982.

EPA SLN No. NC 82 0008. Union Carbide Agricultural Products, Co., Inc. Registration is for Temik 15G GR Aldicarb Pesticide, to be used on tobacco (flue-cured only) to control aphids and flea beetles. March 24, 1982.

EPA SLN No. NC 82 0009. Uniroyal Inc. Registration is for Royal MH–30, to be used on flue-cured tobacco as a sucker control. April 22, 1982.

EPA SLN No. NC 82 0010. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide (+2,4-D), to be used on corn and fallow land to control witchweed and grassy weeds. April 26, 1982.

EPA SLN No. NC 82 0011. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate Insecticide, to be used on eggplants to control *Heliothis* spp. April 26, 1982.

EPA SLN No. NC 82 0012. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate L Insecticide, to be used on eggplants to control corn earworms and beet armyworms. April 26, 1982.

EPA SLN No. NC 82 0013. Mobay Chemical Corp. Registration is for Guthion 2 FL, to be used on cotton to control boll weevils. April 27, 1982.

North Dakota

EPA SLN No. ND 82 0001. U.S. Fish and Wildlife Service. Registration is for strychnine alkaloid, to be used on waterfowl nesting habitats on federally owned lands to control Franklin ground squirrels. January 25, 1982.

EPA SLN No. ND 82 0002. FMC Corp. Registration is for Furadan 10 GR, to be used on sugar beets to control sugar beet root maggots. February 19, 1982.

EPA SLN No. ND 82 0003. Union Carbide Agricultural Products Co., Inc. Registration is for Brominal Broadleaf Herbicide, to be used on wheat and barley to control broadleaf weeds. March 1, 1982.

EPA SLN No. ND 82 0004. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on no-till sunflowers to control broadleaf weeds and grasses. March 8, 1982.

EPA SLN No. ND 82 0005. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sugar beets to control sugar beet root maggots. March 30, 1982.

EPA SLN No. ND 82 0006. Merck and Co., Inc. Registration is for Mertect 340–F, to be used on sugar beets to control *Cercospora* leaf spot. April 14, 1982.

EPA SLN No. ND 82 0007. ICI Americas Inc. Registration is for gramoxone Paraquat Herbicide, to be used on no-till sunflowers to control emerged annual broadleaf weeds and grasses. April 27, 1982.

EPA SLN No. NO 82 0008. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on sunflowers, oilseed varieties, for desiccation of sunflower plants and broadleaf weeds and grasses to facilitate harvesting. April 27, 1982.

Ohio

EPA SLN No. OH 82 0001. Cities Service Co. Registration is for Citco Copper Sulfate Powdered Instant Bluestone, to be used on apples to control fire blight. January 14, 1982.

EPA SLN No. OH 82 0002. Cities Service Co. Registration is for Citco Copper Sulfate Snow Crystals, to be used on apples to control fire blight. January 14, 1982.

EPA SLN No. OH 82 0003. O. M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on turf grasss to control insects. January 19, 1982.

EPA SLN No. OH 82 0004. Ciba-Geigy Corp. Registration is for Ridomil 2E Fungicide to be used on nonbearing apple trees to control collar rot. January 21, 1982.

EPA SLN No. OH 82 0005. Burroughs Wellcome Co. Registration is for Wellcome Insecticide Ear Tags, to be used on dairy and beef cattle and calves to control horn flies, face flies, Gulf Coast ticks, and spinose ear ticks. February 9, 1982.

EPA SLN No. OH 82 0006. Pfizer Inc. Registration is for Mycoshield Brand of Agricultural Terramycin, to be used on pears to control fire blight, and on peaches to control bacterial spot. March 30, 1982.

EPA SLN No. OH 82 0007. FMC Corp. Registration is for Furadan 10G-Inserticide/Nematicide, to be used on cucurbits (cucumbers, melons, squash, and pumpkins) to control nematodes and cucumber beetles. April 6, 1982.

EPA SLN No. OH 82 0008. FMC Corp. Registration is for Furadan 10G-Insecticide/Nematicide, to be used on sweet corn to control flea beetles, corn rootworms, and nematodes. April 8, 1982.

EPA SLN No. OH 82 0009. FMC Corp. Registration is for Furadan 4F Insecticide, to be used on sweet corn to control corn earworms and European corn borers. April 8, 1982.

EPA SLN No. OH 82 0010. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on alfalfa between cuttings to control weeds. April 28, 1982.

EPA SLN No. OH 82 0011. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on no-till sunflowers to control broadleaf weeds and grasses. April 28, 1982.

Oklahoma

EPA SLN No. OK 82 0001. Philips Roxane, Inc. Registration is for Bioceutic Overtime L/P Long Acting Livestock and Premise Insecticide, to be used as a livestock and poultry barn and premise fly spray. February 8, 1982.

EPA SLN No. OK 82 0002. Philips Roxane, Inc. Registration is for Anchor Permectrin 10 percent EC II Long Lasting Livestock and Primise Spray, to be used as a livestock and poultry barn and premise fly spray. February 8, 1982.

EPA SLN No. OK 82 0003. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on alfalfa to control spotted alfalfa aphids. January 5, 1982.

EPA SLN No. OK 82 0004. Dow Chemical USA. Registration is for Grazon PC Herbicide, to be used on range and permanent pasture to control weeds. February 26, 1982.

EPA SLN No. OK 82 0005. Dow Chemical USA. Registrations for Grazon P+D Herbicide, to be used on range and permanent pasture to control weeds. Febrauary 26, 1982.

EPA SLN No. OK 82 0006. Fairfield American Corp. Registration is for Permanone Tick Repellent, to be used on outer clothing to control ticks, chiggers and mosquitoes. (CUP). February 26, 1982.

EPA SLN No. OK 82 0007. ICI Americans Inc. Registration is for Ambush 4E, to be used on cotton to control insects. March 17, 1982.

EPA SLN No. OK 82 0008. T.H. Agriculture and Nutrition Co., Inc. Registration is for Ded--Weed Sulvamine, to be used on wheat, barley, and rye to control broadleaf weeds. March 18, 1982.

EPA SLN No. OK 82 0009. Rohm and Haas Co. Registration is for Blazer 2S Herbicide, to be used on soybeans for post-emergence weed control. March 22, 1982.

EPA SLN No. OK 82 0010. Monsanto Co. Registration is for Roundup, to be used on sorghum to control weeds. April 14, 1982.

EPA SLN No. OK 82 0011. FMC Corp. Registration is for Furadan 10GR, to be used on soybeans to control nematodes at planting time. April 14, 1982.

EPA SLN No. OK 82 0011. FMC Corp. Registration is for Furadan 4FL, to be used on soybeans to control nematodes at planting time. April 14, 1982.

EPA SLN No. OK 82 0013. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. April 21, 1982.

EPA SLN No. OK 82 0014. Sandoz, Inc. Registration is for Solicam 80WP, to be used on non-bearing pecan trees to control weeds and grass. April 22, 1982.

EPA SLN No. OK 82 0015. Dow Chemical USA. Registration is for Butoxy Propyl Ester No. 1, to be used on rangeland and non-crop sites to control broadleaf weeds and woody plants. April 30, 1982.

Oregon

EPA SLN No. OR 82 0001. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on non-bearing grapevines to control cutworms. January 5, 1982.

EPA SLN No. OR 82 0002. J. R. Simplot Co. Registration is for Sim-Tic 0.50-Potato Seed Treater, to be used on potatoes as a seed treater. January 5, 1982.

EPA SLN No. OR 82 0003. Univar. Registration is for Namco Chloropicrin, to be used on utility poles, piles, and timbers in bridges to control wood-decaying fungi and wood-boring insects in the interiors of structural wood products. January 29, 1982.

EPA SLN No. OR 82 0004. O. M Scott and Sons. Registration is for Progrow Ornamental Herbicide II, to be used on container- and field-grown ornamentals for pre-emergence control of weeds. February 3, 1982.

EPA SLN No. OR 82 0005. Union Carbide Agricultural Products Co. Registration is for Weedone 170, to be used for control of mixed susceptible brush species for conifer release (other than pine). February 23, 1982.

EPA SLN No. OR 82 0006. Wilbur-Ellis Co. Registration is for Red-Top dimethoate 2.67 EC, to be used on grass grown for seed to control mites. March 9, 1982.

EPA SLN No. OR 82 0007. Wilbur-Ellis Co. Registration is for Red-Top dimethoate, to be used on grass grown for seed to control mites. March 9, 1982.

EPA SLN No. OR 82 0008. Rohm and Haas Co. Registration is for Dithane M-45FL, to be used on onions (dry bulb) to control onion smut. March 9, 1982.

EPA SLN No. OR 82 0009. Rohm and Haas Co. Registration is for Dithane M-45, to be used on onions (dry bulb) to control onion smut. March 9, 1982.

EPA SLN No. OR 82 0010. Rohm and Haas Co. Registration is for Dithane M-45FL M, to be used on onions (dry bulb) to control onion smut. March 9, 1982.

EPA SLN No. OR 82 0011. Elanco Products Co. Registration is for Treflan Mt.F., to be used on radishes grown for seed to control weeds. March 9, 1982.

EPA SLN No. OR 82 0012. Elanco Products Co. Registration is for Treflan EC, to be used on radishes grown for seed to control weeds. March 9, 1982.

EPA SLN No. OR 82 0013. Union Carbide Agricultural Products Co., Inc. Registration is for Brominal Broadleaf Herbicide, to be used on wheat and barley to control weeds. March 23, 1982.

EPA SLN No. OR 82 0014. Dexol Industries. Registration is for Dexol Diazinon Insect Spray (contains 25% Diazinon), to be used on lawns to control European crane flies. March 23, 1982.

EPA SLN No. OR 82 0015. Mobay Chemical Corp. Registration is for Sencor 50% WP, to be used on lentils to control broadweeds, common lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. March 24, 1982.

EPA SLN No. OR 82 0016. Mobay Chemical Corp. Registration is for Sencor DF/Sencor Sprayule, to be used on lentils to control broadleaf weeds. March 24, 1982.

EPA SLN No. OR 82 0017. Mobay Chemical Corp. Registration is for Sencor 4, to be used on lentils to control broadleaf weeds. March 24, 1982.

EPA SLN No. OR 82 0018. E. I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/Nematicide to be used on pears to control the European red mite, pear rust mite, McDaniel mite, and two-spotted spider mite. March 29, 1982.

EPA SLN No. OR 82 0019. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on onions to control maggots. April 16, 1982.

EPA SLN No. OR 82 0020. Dow Chemical USA. Registration is for Lorsban 15G GR Insecticide, to be used on onions to control maggots. April 16, 1982.

EPA SLN No. OR 82 0021. EM Industries, Inc. Registration is for Funginex 18.2% EC, to be used on cranberries to control cotton balls caused by *Monilinia oxycocci*. March 29, 1982.

EPA SLN No. OR 82 0022. Vertac Chemical Corp. Registration is for Vertac Dinitro Weed Killer 5, to be used on potato vines for preharvest desiccation. April 5, 1982.

EPA SLN No. OR 82 0023. Vertac Chemical Corp. Registration is for Vertac Dinitro Weed Killer 5, to be used on alfalfa, clover, and trefoil grown for seed, for preharvest desiccation. April 5, 1982.

EPA SLN No. OR 82 0024. Vertac Chemical Corp. Registration is for Vertac General Weed Killer, to be used on potato vines for preharvest desiccation. April 5, 1982.

EPA SLN No. OR 82 0025. Vertac Chemical Corp. Registration is for Vertac General Weed Killer, to be used on alfalfa, clover, and trefoil grown for seed for preharvest desiccation. April 5, 1982.

EPA SLN No. OR 82 0026. T.H. Agriculture and Nutrition Co., Inc. Registration is for De-Fend E-267 Insecticide, to be used on ornamental shade and nursery trees to control aphids, borers, and other insects. April 8, 1982.

EPA SLN No. OR 82 0027. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on garlic as a pre-emergence treatment. April 19, 1982.

EPA SLN No. OR 82 0028. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on winter wheat only, for volunteer rye and downy brome suppression. April 19, 1982.

EPA SLN No. OR 82 0029. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on pasture reseeding west of the Cascade Mountains to control broadleaf weeds and grasses. April 19, 1982.

EPA SLN No. OR 82 0030. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on alfalfa and clover for desiccation of ryegrass, bluegrass,

cheatgrass, dog fennel, chickweed, and tansy mustard. April 19, 1982.

EPA SLN No. OR 82 0031. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Sencor Sprayule, to be used on wheat-fallow-wheat rotation to control weeds. April 19, 1982.

EPA SLN No. OR 82 0032. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Sencor WP, to be used on wheat-fallow-wheat rotation to control weeds. April 19, 1982.

EPA SLN No. OR 82 0033. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Sencor 4 FL, to be used on wheat-fallow-wheat rotation to control weeds. April 19, 1982.

EPA SLN No. OR 82 0034. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Sencor 50W, to be used on alfalfa to control bluegrass, chickweed, henbit, downy brome, cheat, Japanese brome, rescue grass, and shepherd's purse. April 19, 1982.

EPA SLN No. OR 82 0035. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Sencor Sprayule, to be used on alfalfa to control bluegrass, chickweed, henbit, downy brome, cheat, Japanese brome, rescue grass, and shepherd's purse. April 19, 1982.

EPA SLN No. OR 82 0036. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Sencor 4 FL, to be used on alfalfa to control weeds. April 19, 1982.

EPA SLN No. OR 82 0037. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide to be used on potatoes after planting as a pre-emergence treatment. April 19, 1982.

EPA SLN No. OR 82 0038. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Chem-Hoe 135, to be used on wheat to control weeds. April 19, 1982.

EPA SLN No. OR 82 0039. T.H. Agriculture and Nutrition Co., Inc. Registration is for De-Fend E–267 Insecticide, to be used on grass seed crops to control aphids, thrips, and plant bugs. April 19, 1982.

EPA SLN No. OR 82 0040. FMC Corp. Registration is for Dimethoate 267, to be used on cherries to control cherry fruit flies. April 22, 1982.

Pennsylvania

EPA SLN No. PA 82 0001. Philips Roxane, Inc. Registration is for Bioceutic Overtime L/P Long Acting Livestock and Premise Insecticide, to be used on livestock and poultry and their premises to control house flies, face flies, and other manure-breeding flies. January 13, 1982.

EPA SLN No. PA 82 0002. Philips Roxane, Inc. Registration is for Anchor Permectrin 10% EC II Long Lasting Livestock and Premise Spray, to be used on livestock and poultry and their premises to control house flies, face flies, and other manure-breeding flies. January 13, 1982.

EPA SLN No. PA 82 0003. Shell Chemical Co. Registration is for Nudrin 1.8 Methomyl Insecticide Solution, to be used on watercress to control diamondbacks, moths, and cabbage loopers. January 25, 1982.

EPA SLN No. PA 82 0004. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on tobacco to control larvae of cutworms, flea beetles, root maggots, and wireworms. February 9, 1982.

EPA SLN No. PA 82 0005. Dow Chemical USA. Registration is for Lorsban 15G GR, to be used on tobacco to control larvae of cutworms, flea beetles, root maggots, and wireworms. February 9, 1982.

EPA SLN No. PA 82 0006. Shell Chemical Co. Registration is for Vaponite 2 Emulsifiable Insecticide, to be used on mushroom houses to control phorid flies. February 17, 1982.

EPA SLN No. PA 82 0007. Burroughs Wellcome Co. Registration is for Atroban Cattle Ear Tags, to be used on beef and dairy cattle to repeal flies, face flies, and ticks. March 17, 1982.

EPA SLN No. PA 82 0008. Y-Tex Corp. Registration is for Insecticide Tag for Dairy and Beef Cattle, to be used as ear tags to control horn flies, face flies, Gulf Coast ticks, and spinose ear ticks. March 17, 1982.

EPA SLN No. PA 82 0009. O.M. Scott and Sons. Registration is for Proturf Insecticide 4, to be used on cool season grasses to control white grubs, sod webworms, chinch bugs, mole crickets, and hyperodes weevils. March 26, 1982.

EPA SLN No. PA 82 0010. FMC Corp. Registration is for Furadan 4 FL, to be used on sweet corn to control European corn borers. March 28, 1982.

EPA SLN No. PA 82 0011. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control various pests. March 28, 1982.

EPA SLN No. PA 82 0012. Vertac Chemical Corp. Registration is for Vertac General Weed Killer, to be used for potato vine desiccation. March 31, 1982.

EPA SLN No. PA 82 0013. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on dormant alfalfa to control weeds and grass. April 28, 1982.

EPA SLN No. PA 82 0014. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on alfalfa between cuttings to control weeds. April 28, 1982.

EPA SLN No. PA 82 0015. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on oats as a preplant and pre-emergence treatment. April 28, 1982.

Puerto Rico

EPA SLN No. PR 81 0008. Monsanto Co. Registration is for Roundup, to be used on plantains and bananas to control weeds. December 15, 1981.

EPA SLN No. PR 81 0009. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 10G Aldicarb Pesticide, to be used on bananas and plantains to control nematodes. December 15, 1981.

EPA SLN No. PR 82 0001. Chevron Chemical Co. Registration is for Monitor 4 Spray, to be used on melons to control the rindworm complex (cabbage looper, tabacco budworm, and granulate cutworm), and melonworms, pickleworms, and leaf miners. March 4, 1982.

Rhode Island

EPA SLN No. RI 82 0001. Rhode Island Division of Agriculture. Registration is for Proturf Insecticide 4, to be used on turf grasses to control insects. January 17, 1982.

South Carolina

EPA SLN No. SC 82 0001. Ameribrom, Inc. Registration is for Edabrom 85, to be used on soybeans to control nematodes. January 5, 1982.

EPA SLN No. SC 82 0002. Helena Chemical Co. Registration is for Hel-Fire, to be used on tomato crops as an aid to the desiccation of tomato crop residue. January 26, 1982.

EPA SLN No. SC 82 0003. The O.M. Scott and Sons Co. Registration is for Progrow Ornamental Herbicide II, to be used on container- and field-grown ornamentals to control weeds. February 3, 1982.

EPA SLN No. SC 82 0004. Great Lakes Chemical Corp. Registration is for Soilbrom-90, to be used on Bermudagrass (ornamental turf) to control sting, lance, and ring nematodes, and mole crickets and white grubs. February 26, 1982.

EPA SLN No. SC 82 0008. Fairfield American Corp. Registration is for Permonone Tick Repellent, to be used on outer clothing to control ticks, chiggers, and mosquitoes. April 30, 1982.

EPA SLN No. SC 82 0009. Dow Chemical U.S.A. Registration is for Lorsban 4E Insecticide, to be used on tobacco to control cutworms. April 30, 1982.

EPA SLN No. SC 82 0010. Dow Chemical U.S.A. Registration is for Lorsban 15G GR, to be used on tobacco to control cutworms. April 30, 1982.

EPA SLN No. SC 82 0011. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-2,4-D, to be used on corn to control witchweed. April 30, 1982.

South Dakota

EPA SLN No. SD 82 0001. Dow Chemical U.S.A. Registration is for Lorsban 15 G GR Insecticide, to be used on field corn and popcorn to control European corn borers. February 19, 1982.

EPA SLN No. SD 82 0002. Mobay Chemical Corp. Registration is for Oftanol 5 percent GR, to be used on turf grasses to control white grub larvae. February 19, 1982.

EPA SLN No. SD 82 0003. Degesch America, Inc. Registration is for Degesch Phostoxin New Coated Tablets-R, to be used as a burrowing rodent control to control black-tailed prairie dogs. February 19, 1982.

EPA SLN No. SD 82 0004. Philips Roxane, Inc. Registration is for Golden Sun Secticide-10, to be used on livestock and poultry to control house flies, face flies, stable flies, and false stable flies. April 20, 1982.

Tennessee

EPA SLN No. TN 82 0001. FMC Corp. Registration is for Furadan 10 GR, to be used on young pine plantations and pines grown for Christmas trees to control Nantucket pine tip moths. January 4, 1982.

EPA SLN No. TN 82 0002. The O.M. Scott and Sons Co. Registration is for Progrow Ornamental Herbicide II, to be used on container- and field-grown ornamentals to control weeds. January 22, 1982.

EPA SLN No. TN 82 0003. Burroughs Wellcome Co. Registration is for Atroban Cattle Ear Tags, to be used on dairy and beef cattle and calves to control horn flies, face flies, spinose ear ticks, stable flies and house flies. January 25, 1982.

EPA SLN No. TN 82 0004. Y-Tex Corp. Registration is for Insecticide Tag for Dairy and Beef Cattle, to be used as an ear tag to control horn flies, face flies, Gulf Coast ticks, spinose ear ticks, stable flies, and house flies on beef cattle including calves, and on dairy cattle including lactating dairy cattle. January 25, 1982.

EPA SLN No. TN 82 0005. Fairfield American Corp. Registration is for Permanone Tick Repellent, to be used on outer clothing to control ticks, chiggers, and mosquitoes. (CUP). February 2, 1982.

EPA SLN No. TN 82 0006. FMC Corp. Registration is for Furadan 10 GR, to be used on soybeans to control nematodes. February 24, 1982.

EPA SLN No. TN 82 0007. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans to control nematodes. February 24, 1982.

EPA SLN No. TN 82 0008. Dow Chemical USA. Registration is for Dowfume W–85 High-Strength Soil Fumigant, to be used on soybeans to control nematodes including lance, lesion, root-knot, spiral, and sting. February 26, 1982.

EPA SLN No. TN 82 0009. Dow Chemical USA. Registration is for Dowfume W–90 High-Strength Soil Fumigant, to be used on soybeans to control nematodes including lance, lesion, root-knot, spiral, and sting. February 26, 1982.

EPA SLN No. TN 82 0010. Dow Chemical Co. Registration is for Dowfume W–100 Full Strength Soil Fumigant, to be used on soybeans to control nematodes including lance, lesion, root-knot, spiral, and sting. February 26, 1982.

EPA SLN No. TN 82 0011. Chevron Chemical Co. Registration is for Orthene Tobacco Insect Spray, to be used on tobacco transplants to control flea beetles. March 1, 1982.

Texas

EPA SLN No. TX 82 0001. Sandoz, Inc. Registration is for Solicam 80 WP Herbicide, to be used on peach and plum orchards to control weeds and grasses. January 15, 1982.

EPA SLN No. TX 82 0002. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. February 2, 1982.

EPA SLN No. TX 82 0003. FMC Corp. Registration is for Furadan 10 GR, to be used on sunflowers grown for seed to control stem weevils. February 3, 1982.

EPA SLN No. TX 82 0004. O.M. Scott and Sons Co. Registration is for Progrow Ornamental Herbicide II, to be used on container- and field-grown ornamentals to control weeds. February 4, 1982.

EPA SLN No. TX 82 0005. E.I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/Nematicide to be used on cotton to control boll weevils and cotton fleahoppers. February 5, 1982.

EPA SLN No. TX 82 0006. Dow Chemical USA. Registration is for Grazon PC Herbicide, to be used on rangeland and permanent grass pastures to control broadleaf annual and perennial weeds. February 10, 1982.

EPA SLN No. TX 82 0007. Dow Chemical USA. Registration is for Grazon P+D Herbicide, to be used on rangeland and permanent grass pastures to control broadleaf annual and perennial weeds. February 10, 1982.

EPA SLN No. TX 82 0008. Penick Corp. Registration is for SBP–1382 4.22 MF Mineral Oil Spray, to be used as an aerial application to control mosquitoes. February 24, 1982.

EPA SLN No. TX 82 0009. Merck and Co., Inc. Registration is for Arbotect S, to be used on live oak trees to control oak decline. February 24, 1982.

EPA SLN No. TX 82 0010. Chevron Chemical Co. Registration is for Bolero 8 EC, to be used on dry-seeded rice to control weeds. February 25, 1982.

EPA SLN No. TX 82 0011. T.H. Agriculture and Nutrition Co., Inc. Registration is for Ded-Weed Sulvamine, to be used on wheat (fall or spring sown), barley, and rye to control weeds. March 18, 1982.

EPA SLN No. TX 82 0012. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sunflowers grown for seed production to control stem weevils. March 29, 1982.

EPA SLN No. TX 82 0013. Fairfield American Corp. Registration is for Permanone Tick Repellent, for use on clothing to repel ticks, chiggers, and mosquitoes. (CUP). April 2, 1982.

EPA SLN No. TX 82 0014. Dow Chemical USA. Registration is for Butoxy Propyl Ester Mix No. 1, to be used on rangeland and non-crop sites to control broadleaf weeds and woody plants. April 2, 1982.

EPA SLN No. TX 82 0015. Pennwalt Corp. Registration is for Knox Out 2FM Insecticide, to be used on lawns and other recreation areas to control fire ants. April 2, 1982.

EPA SLN No. TX 82 0016. ICI Americas Inc. Registration is for Ambush 4E–EC, to be used on cotton to control boll weevils, tobacco budworms, cabbage loopers, bollworms, lygus bugs, cotton aphids, and whiteflies. April 6, 1982.

EPA SLN No. TX 82 0017. Mobay Chemical Corp. Registration is for Monitor 4, to be used on peppers to control green peach aphids, leafminers, thrips, and flea beetles. April 6, 1982.

EPA SLN No. TX 82 0018. Shell Chemical Co. Registration is for Azodrin 5 Water Miscible Insecticide, to be used on tomatoes to control aphids, leafminers, cabbage loopers, and tomato fruitworms. April 8, 1982.

EPA SLN No. TX 82 0019. Rohm and Haas Co. Registration is for Dithane M–45, to be used on wheat to control wheat rust. April 8, 1982.

Utah

EPA SLN No. UT 82 0001. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. February 19, 1982.

EPA SLN No. UT 82 0002. Union Carbide Agricultural Products Co., Inc. Registration is for Brominal Broadleaf Herbicide, to be used on wheat and barley to control broadleaf weeds. February 22, 1982.

EPA SLN No. UT 82 0003. Bell Laboratories, Inc. Registration is for P.C.Q. Rat and Mouse Bait, to be used on orchards and groves to control meadow and pine mice, and voles (*Microtus* spp). March 5, 1982.

EPA SLN No. UT 82 0004. Clarke Outdoor Spraying Co. Registration is for 2% GR Larvicide, to be used on mosquitoes to control larvae. March 23, 1982.

Vermont

EPA SLN No. VT 82 0001. FMC Corp. Registration is for Zinc Phosphide Mouse Bait 200, to be used on sugar maple orchards to control red squirrels, chipmunks, and mice. January 11, 1982.

EPA SLN No. VT 82 0002. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae (such as Japanese beetle, black turf grass *Ataenius*, and chafers). March 11, 1982.

Virginia

EPA SLN No. VA 82 0001. Virginia Department of Agriculture and Consumer Service. Registration is for Proturf Insecticide 4, to be used on turf grasses to control white grubs (cool season grasses only), sod webworm, chinch bugs, mole crickets, and hyperodes weevils. January 4, 1982.

EPA SLN No. VA 82 0002. International Two Thousand, Inc. Registration is for Mr. Rat Guard II Pellets, to be used on orchards to control pine and meadow voles. January 7, 1982.

EPA SLN No. VA 82 0003. Ameribrom, Inc. Registration is for Edabrom 85, to be used on soybeans at plant or preplant to control nematodes. February 3, 1982.

EPA SLN No. VA 82 0004. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate L Insecticide and Lannate, to be used on small grains to control cereal leaf beetles and aphids. February 22, 1982.

EPA SLN No. VA 82 0005. Dow Chemical USA. Registration is for Dowfume W–90 Soil Fumigant, to be used on peanuts at plant to control root-knot, lesion, sting, and ring nematodes. February 22, 1982.

EPA SLN No. VA 82 0006. Dow Chemical USA. Registration is for Dowfume W–90 High-Strength Soil Fumigant, to be used on soybeans at plant or preplant to control nematodes. February 22, 1982.

EPA SLN No. VA 82 0007. Vertac Chemical Corp. Registration is for Vertac Premerge 3 Dinitro Amine Herbicide, to be used on peanuts to control newly emerged broadleaf weeds such as Florida beggarweed, ragweed, sicklepod, and *Sclerotinia* blight. February 23, 1982.

EPA SLN No. VA 82 0009. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles. March 8, 1982.

EPA SLN No. VA 82 0010. FMC Corp. Registration is for Furadan 4 FL, to be used on sweet corn to control the European corn borer. March 8, 1982.

EPA SLN No. VA 82 0011. American Cyanamid Co. Registration is for Cythion Insecticide, to control adult mosquitoes. March 22, 1982.

EPA SLN No. VA 82 0012. American Cyanamid Co. Registration is for Malathion ULV Concentrate Insecticide, to control adult mosquitoes. March 22, 1982.

EPA SLN No. VA 82 0013. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15G GR Aldicarb Pesticide, to be used on tobacco (flue-cured only) to control aphids and flea beetles. March 25, 1982.

EPA SLN No. VA 82 0014. Mobay Chemical Corp. Registration is for Dasanit+Di-Syston 4–2 Spray Concentrate, to be used on tobacco to control aphids, flea beetles, wireworms, and nematodes. March 31, 1982.

EPA SLN No. VA 82 0015. Bell Laboratories, Inc. Registration is for P.C.Q. Rat and Mouse Bait, to be used on orchards and groves to control pine and meadow voles. March 31, 1982.

EPA SLN No. VA 82 0016. Health-Chemical Corp. Registration is for Hercon Luretape with Disparlure, to be used on gypsy moths for suppression through mating disruption. April 6, 1982.

EPA SLN No. VA 82 0017. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans to control the Mexican bean beetle. April 16, 1982.

EPA SLN No. VA 82 0018. Morton-Norwich Products. Registration is for No-Pest Strip Insecticide II, to be used in cocoa bean warehouses to control cocoa bean moths. April 16, 1982.

EPA SLN No. VA 82 0019. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on alfalfa as a post-harvest weed control. April 23, 1982.

Washington

EPA SLN No. WA 82 0001. Union Carbide. Registration is for Weedone 170, to be used on forest land to control broadleaf weeds. February 23, 1982.

EPA SLN No. WA 82 0004. Diamond Shamrock Corp. Registration is for Dacthal W–75 Herbicide, to be used on radishes grown for seed to control weeds. March 12, 1982.

EPA SLN No. WA 82 0005. Van Waters and Rogers. Registration is for Namco Lindane–20%, to be used on wood to control investing beetles. March 12, 1982.

EPA SLN No. WA 82 0006. Vertac Chemical Corp. Registration is for Vertac General Weed Killer, to be used for desiccation of potato vines. March 16, 1982.

EPA SLN No. WA 82 0007. Vertac Chemical Corp. Registration is for Vertac General Weed Killer, to be used for preharvest desiccation of alfalfa, clover, and trefoil grown for seeds. March 16, 1982.

EPA SLN No. WA 82 0008. Vertac Chemical Corp. Registration is for Vertac Dinitro Weed Killer, to be used for potato vine desiccation. March 16, 1982.

EPA SLN No. WA 82 0009. Vertac Chemical Corp. Registration is for Vertac Dinitro Weed Killer, to be used for preharvest desiccation of alfalfa, clover, and trefoil grown for seeds. March 16, 1982.

EPA SLN No. WA 82 0010. The Chas. H. Lilly Co. Registration is for Lilly/Miller 5% Diazinon GR, to be used on turf grasses to control the European crane fly. March 12, 1982.

EPA SLN No. WA 82 0011. Elanco Products Co. Registration is for Treflan EC, to be used on radishes grown for seed to control weeds. March 18, 1982.

EPA SLN No. WA 82 0012. Elanco Products Co. Registration is for Treflan MT.F., to be used on radishes grown for seed to control weeds. March 18, 1982.

EPA SLN No. WA 82 0013. Dexol Industries. Registration is for Dexol Diazinon Insect Spray Contains 25% Diazinon, to be used on turf grasses to control European crane flies. March 24, 1982.

EPA SLN No. WA 82 0014. Mobay Chemical Corp. Registration is for Sencor 50% WP, to be used on lentils to control common lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 12, 1982.

EPA SLN No. WA 82 0015. Mobay Chemical Corp. Registration is for Sencor 4, to be used on lentils to control common lambsquarters, wild mustard,

field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 12, 1982.

EPA SLN No. WA 82 0016. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used on lentils to control common lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 12, 1982.

EPA SLN No. WA 82 0017. Mobay Chemical Corp. Registration is for Sencor DF, to be used on lentils to control lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 12, 1982.

EPA SLN No. WA 82 0018. EM Industries, Inc. Registration is for Funginex 18.2% EC, to be used on cranberries to control cotton ball caused by *Monilinia oxycocci*. April 15, 1982.

EPA SLN No. WA 82 0019. Platte Chemical Co. Registration is for Clean Crop Dursban ½ G Insecticide, to be used on home lawns, turf, and ornamental turf areas to control European crane fly larvae (maggots). April 15, 1982.

EPA SLN No. WA 82 0020. Platte Chemical Co. Registration is for Clean Crop Dursban 2.5G Insecticide, to be used on home lawns, turf, and ornamental turf areas to control European crane fly larvae (maggots). April 15, 1982.

EPA SLN No. WA 82 0021. Platte Chemical Co. Registration is for Clean Crop Diazinon 5 Lawn and Garden, to be used on home lawns, turf, and ornamental turf areas to control European crane fly larvae (maggots). April 15, 1982.

EPA SLN No. WA 82 0022. Platte Chemical Co. Registration is for Clean Crop Diazinon 25 Lawn and Garden, to be used on home lawns, turf, and ornamental turf areas to control European crane fly larvae (maggots). April 15, 1982.

EPA SLN No. WA 82 0023. T. H. Agriculture and Nutrition Co., Inc. Registration is for DE-Fent E–267 Insecticide, to be used on ornamental shade and nursery trees to control aphids, borers, and other insects listed on the label. April 16, 1982.

EPA SLN No. WA 82 0024. FMC Corp. Registration is for Polyram 80 WP, to be used on potatoes to control early blight. April 15, 1982.

West Virginia

EPA SLN No. WV 82 0001. O. M. Scott and Sons. Registration is for Proturf Insecticide 4, to be used on cool season grasses only to control sod webworms, chinch bugs, mole crickets, and hyperodes weevils. January 28, 1982.

Wyoming

EPA SLN No. WY 82 0001 Bell Laboratories, Inc. Registration is for ZP Rodent Bait AG, to be used as rodent bait to control prairie dogs (blacktailed, and whitetailed). January 11, 1982

EPA SLN No. WY 82 0002. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. February 16, 1982.

EPA SLN No. WY 82 0003. Union Carbide Agricultural Products Co., Inc. Registration is for Brominal Broadleaf Herbicide, to be used on irrigated oats, wheat, and barley to control fiddleneck, wild buckwheat, fanweed, Kochia, Russian thistle, and other susceptible broadleaf weeds. February 18, 1982.

(Sec. 24, as amended 92 Stat. 835; (7 U.S.C. 136))

Dated: September 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–26972 Filed 9–29–82; 8:45 am]

BILLING CODE 6560–50–M

[AAA–FRL 2218–4]

EPA Master List of Debarred and Suspended Persons

AGENCY: Environmental Protection Agency.

ACTION: EPA Master List of Debarred and Suspended Persons.

SUMMARY: 40 CFR 32.400 requires the Director, Grants Administration Division, to publish in the **Federal Register** each calendar quarter, the names of, and other information concerning, those individuals and firms debarred or suspended from participation in EPA assisted programs. Assistance recipients and contractors under an EPA award may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment or voluntary exclusion.

DATE: This list is current as of September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Robert F. Meunier (202) 382–5291 or the EPA Office of Regional Counsel in your region.

September 24, 1982.

Harvey G. Pippen, Jr.,

Director,

Grants Administration Division.

EPA MASTER LIST OF DEBARRED AND SUSPENDED FIRMS AND INDIVIDUALS

Name	File No.	Status [1]	From	To	Authority	Other agency
Ashland-Warren, Inc. (Tennessee)	82-0401	D	Sept. 22, 1982	May 6, 1958	§ 32.200(a), § 32.200(e)	FHwA.
Carpenter, Frank	82-0403	S	Sept. 23, 1982	Open	§ 32.200(a), § 32.200(b)	
Crowder Construction Company, Inc. (North Carolina)	82-0402	S	do	do	§ 32.200(a), § 32.200(b)	
Crowder, Otis	82-0402	S	do	do	§ 32.200(a), § 32.200(b)	
Dickerson Group, Inc. (North Carolina)	82-0403	S	do	do	§ 32.200(b)	
Herbert G. Whyte Associates, Inc. (Indiana)	82-0501	S	Sept. 17, 1982	do	§ 32.200(b), § 32.200(e)	
Whyte, Herbert G	82-0501	S	do	do	§ 32.200(b), § 32.200(e)	

[1] S = Suspended. D = Debarred. (State of Incorporation)

VOLUNTARY EXCLUSIONS

Name	File No.	From—	To—

[FR Doc. 82–26967 Filed 9–29–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-652-DR]

Indiana; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Indiana (FEMA-652-DR), dated March 20, 1982, and related determinations.

DATED: September 17, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

NOTICE: The notice of a major disaster for the State of Indiana dated March 20, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrohpe declared a major disaster by the President in his declaration of March 20, 1982: The City of Plymouth in Marshall County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82-26907 Filed 9-29-82; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-668-DR]

Tennessee; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice of the Presidential declaration of a major disaster for the State of Tennessee (FEMA-668-DR), dated September 22, 1982, and related determinations.

DATED: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of September 22, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Tennessee resulting from severe storms and flooding beginning on September 12, 1982, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Tennessee.

In order to provide Federal assistance, you are herby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Federal assistance provided under Pub. L 93-288 will be limited to Individual Assistance.

The time period prescribed for the inplementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Paul E. Hall of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Tennessee to have been affected adversely by this declared major disaster:

Gibson County for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82-26908 Filed 9-29-82; 8:45 am]

BILLING CODE 6718-02-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)(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 Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Mid-Citco Incorported,* Chicago, Illinois; to acquire 100 percent of the voting shares of the successor by merger to First National Bank of Morton Grove, Morton Grove, Illinois. Comments on this application must be received not later than October 25, 1982.

2. *The Marion National Corporation,* Marion, Indiana; to retain 1,183 shares or 0.85 percent of the voting shares of American Bank & Trust Company, Marion, Indiana. Comments on this application must be received not later than October 25, 1982.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20501:

1. *First City Bancorporation of Texas, Inc.,* Houston, Texas; to acquire 100 percent of the voting shares or assets of The Graham National Bank, Graham, Texas, and Graham National Bancorporation, Graham, Texas. This application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than October 22, 1982.

Board of Governors of the Federal Reserve System, September 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26953 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

BankAmerica International; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

BankAmerica International, San Francisco, California, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the

Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in the Miami International Airport, Miami, Florida. BankAmerica International operates as a subsidiary of Bank of America National Trust and Savings Association, San Francisco, California.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 22, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26943 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; de Proposed novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve bank not later than the date indicated for each application.

A. **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 finance and credit-related insurance activities; Washington): To open a *de novo* office of its subsidiary, Citicorp Washington Financial Center, Inc., located in Tukwila, Washington. The activities in which the *de novo* office proposes to engage are as follows: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or nonresidential real estate and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The service area of the office would be comprised of the State of Washington. Comments on this application must be received not later than October 25, 1982.

2. *Manufacturers Hanover Corporation*, New York, New York, (commercial finance activities; United States): To engage through a *de novo* indirect subsidiary, Finance One Commercial Corporation, to be located in Trevose, Pennsylvania, in the activities of making, acquiring, and servicing commercial loans and other extensions of credit, such as could be made, acquired or serviced by a commercial finance company under state law. Such activities would include, but not be limited to, engaging in commercial and business financing of all types, and making loans secured by residential real estate to individuals for business purposes. These activities would be conducted from an office located in Trevose, Pennsylvania, serving the entire United States. Comments on this application must be received not later than October 25, 1982.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Ranier Bancorporation*, Seattle, Washington (finance and insurance activities; Texas): To engage through its subsidiary, Ranier Mortgage Company, in making or acquiring for its own account or for the account of others, loans or other extensions of credit; and acting as an agent or broker for credit life, disability, property and casualty insurance that is directly related to its extensions of credit. These activities will be conducted from an office in Houson,Texas, serving the entire State of Texas. Comments on this application must be received not later than October 25, 1982.

Board of Governors of the Federal Reserve System, September 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26949 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

Citicorp; Correction

This document corrects a previous **Federal Register** document (FR Doc. 82-25265) that was published on page 40486 of the issue for Tuesday, September 14, 1982. By notice published in the **Federal Register** on Thursday, July 15, 1982 (47 FR 30872), the Board determined not to add to the list of activities determined to be closely related to banking managing or controlling banks (12 CFR 225.4(a)) of the activity of engaging as a futures commission merchant in the execution and clearance on major commodity exchanges of futures contracts covering bullion, foreign exchange, U.S. Government securities, and money market instruments. Nevertheless, the Board has determined by individual order that such activities are closely related to banking. The Board will continue to proceed with applications in this area on a case-by-case basis.

Board of Governors of the Federal Reserve System, September 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26944 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

First Security National Corp.; Acquisition of Bank

First Security National Corporation, Houston, Texas, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with The Graham National Bank, Graham, Texas, and Graham National Bancorporation, Graham, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 22, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26945 Filed 9-29-82; 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 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 Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Bank of Delaware Corporation,* Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Delaware, Wilmington, Delaware. Comments on this application must be received not later than October 25, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Addison Bancshares, Inc.,* Addison, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to First Security Bank, Addison, Illinois. Comments on this application must be received not later than October 22, 1982.

2. *Beecher Bancorp, Inc.,* Beecher, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of Farmers State Bank of Beecher, Beecher, Illinois. Comments on this application must be received not later than October 25, 1982.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Nelson Bancorp, Inc.,* Chaplin, Kentucky; to become a bank holding company by acquiring 80 percent of the voting shares of Peoples State Bank, Chaplin, Kentucky. Comments on this application must be received not later than October 25, 1982.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First State Bancshares of Yoakum, Inc.,* Yoakum, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank, Yoakum, Texas. Comments on this application must be received not later than October 25, 1982.

2. *United Bancorp., Inc.,* Victoria, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of Unitedbank-Victoria, Victoria, Texas. Comments on this application must be received not later than October 25, 1982.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Torrey Pines Group,* Solana Beach, California; to become a bank holding company by acquiring 100 percent of the voting shares of Torrey Pines Bank, Solana Beach, California. Comments on this application must be received not later than October 25, 1982.

F. **Board of Governors of the Federal Reserve System,** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Valbanque Corporation* and its wholly-owned subsidiary, Banco Holdings, Ltd., both of Hato Rey, Puerto Rico; to become a bank holding company by acquiring at least 25 percent of the voting shares of the The First Women's Bank, New York, New York. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Comments on this application must be received not later than October 25, 1982.

2. *ABC Bancorporation, Inc.,* Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Austin Bank of Chicago, Chicago, Illinois. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than October 25, 1982.

Board of Governors of the Federal Reserve System, September 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26952 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

PNC Financial Corp.; Acquisition of Banks

PNC Financial Corp., Pittsburgh, Pennsylvania, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to be the successor corporation of the consolidation of Pittsburgh National Corporation, Pittsburgh, Pennsylvania and Provident National Corporation, Philadelphia, Pennsylvania, and thereby indirectly acquired Pittsburgh National Bank, Jeannette, Pennyslvania, Provident National Bank, Bryn Mawr, Pennsyvlania, and Provident of Delaware Bank, N.A., Wilmington, Delaware.

PNC Financial Corp., Pittsburgh, Pennsylvania, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire five percent (or more) of the voting shares of Central Penn National Corporation, Bala Cynwyd, Pennsylvania and Southeast National Bancshares of Pennsylvania, Malvern, Pennsylvania. The factors that are considered in acting on these applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

PNC Financial Corp., Pittsburgh, Pennsylvania, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Kissell Company, Pittsburgh National Discount Corporation, PINACO, Inc., Pittsburgh National Leasing Corporation, Pittsburgh National Life Insurance Company, Provident National Investment Corporation, and Provident National Financial Corporation.

Applicant states that the proposed subsidiaries would perform the

activities of originating, selling, and servicing mortgages; financing; leasing of personal property; and the sale and underwriting of credit-related insurance. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

PNC Financial Corp., Pittsburgh, Pennsylvania, has also given notice that it will do business indirectly under section 25(a) of the Federal Reserve Act by acquiring indirectly the shares of three Edge corporation subsidiaries, Pittsburgh International Bank, New York, New York and Los Angeles, California, and Provident International Corporation, Philadelphia, Pennsylvania.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 22, 1982.

Board of Governors of the Federal Reserve System, September 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26954 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

SafraCorp; Acquisition of Bank Shares by Bank Holding Companies

SafraCorp, Miami, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of SafraBank II, N.A., Pompano Beach, Florida, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

SafraCorp, Miami, Florida, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the activities of making acquiring and servicing loans and other extensions of credit for its own account or for the account of others. These activities would be performed from offices of Applicant's subsidiary in Miami, Florida, and the geographic area to be served is the State of Florida. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than October 22, 1982.

Board of Governors of the Federal Reserve System, September 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26946 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

Skandinaviska Enskilda Banken; Correction

This document corrects a previous **Federal Register** document (FR Doc.-82-23931) published at page 38634 of the issue for Wednesday, September 1, 1982. The notice stated that the activities proposed by Skandinaviska Enskilda Banken have been specified in § 225.4(a) of Regulation Y as permissible for bank holding companies. In fact, the Board has not added the proposed activities of an investment company organized under Acticle XII of New York State Banking Law to the list of activities determined to be closely related to managing or controlling banks (12 CFR 225.4(a). Nevertheless, the Board has determined by individual order that such activities are closely related to banking. At this time, the Board will proceed with applications in this area on a case-by-case basis.

Board of Governors of the Federal Reserve System, September 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26947 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

Consumer Advisory Council; Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Wednesday, October 27, and Thursday, October 28. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The October 27 session is expected to begin at 1:15 p.m. and to continue until 5:00 p.m. The October 28 session is expected to begin 9:00 a.m. and to conclude at 3:00 p.m., with a lunch break from 1:00 to 2:00 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will consider the following topics:

1. *Status Reports on Ongoing Surveys.* Status reports on the scope and focus of a survey of household finances that the Board and other agencies plan to conduct next year, working through the Survey Research Center of the University of Michigan and on the Board's survey of depository institutions, to gather data on the incremental compliance costs/benefits of Regulations E, B, and Z.

2. *Section 340 Fair Housing Lending Study.* A discussion of the findings of a study prepared for the Federal Financial Institutions Examination Council on the feasibility and desirability of establishing a unified data collection and analysis system for enforcing fair housing lending laws and regulations, implementing the Community Reinvestment Act, and satisfying the

public disclosure requirements of the Home Mortgage Disclosure Act.

3. *The Provision of Financial Services in the 1980s.* Council presentations about developments shaping the future of the consumer financial services industry, and a staff presentation on the status of legislative proposals to reform the financial regulatory structure.

4. *Advertising of Individual Retirement Accounts (IRAs).* A discussion of a report to be presented by the Ad Hoc IRA Advertising Committee.

5. *New Thrusts in Consumer Education.* A discussion of the changing educational needs of consumers.

6. *Remarks by Departing Council Members.* Council members whose terms expire at year-end will discuss their experience on the Council and suggestions for its future operation.

7. *Regulatory Update.* A status report on recent Board regulatory actions in the area of consumer financial services.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topices may do so by sending written statements to Ms. Kay Oliver, Secretary, Consumer Advisory Council, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be received no later than close of business Friday, October 22, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors of the Federal Reserve System, September 24, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–26948 Filed 9–29–82; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Application Announcement for Health Careers Opportunity Program Grants

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1983 Health Careers Opportunity Program (HCOP) grants are now being accepted under the authority of section 787 of the Public Health Service Act.

Section 787 authorizes the Secretary to make grants to schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and allied health and other public or private nonprofit health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools. The assistance authorized by this section includes identification and recruitment, remedial education, counseling, and advice on financial aid.

For this program, an "individual from a disadvantaged background" means an individual who (a) comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health profession, or (b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health professions programs, 42 CFR 57.1804(b)(2).

The following income figures determine what constitutes a low income family for purpose of these Health Careers Opportunity Program grants for Fiscal year 1983:

Size of parents' family [1]	Income level [2]
1	$6,100
2	7,900
3	9,400
4	12,100
5	14,300
6	16,000

[1] Includes only dependents listed on Federal income tax forms.
[2] Adjusted gross income for calendar year 1981, rounded to $100.

Fiscal year 1983 materials are being made available without final action on an appropriation for this program. The amount of money available for competitive applications is based on a $17.24 million appropriation request for Fiscal Year 1983.

Based on projected commitments for currently active projects requiring continued support, an estimated $1,400,000 will be available for competitive HCOP awards in Fiscal Year 1983. This amount may be changed by final action on the Fiscal Year 1983 appropriation.

At least 80 percent of the funds appropriated in any fiscal year must be obligated for grants or contracts to institutions of higher education. Also, no more than five percent of the funds appropriated in any fiscal year can be awarded to projects having information dissemination as their primary purpose.

The program regulations which are located at Title 42 of the Code of Federal Regulations, Part 57, Subpart S, continue to govern the award of grants although minor portions have been superseded by current legislation (Pub. L. 97–35). Because only limited funding is expected to be available for competitive awards in Fiscal Year 1983, funding preferences will not apply for Fiscal Year 1983 competitive awards.

Requests for grant application materials and questions regarding grants policy should be directed to: Grants Management Officer (D18), Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–7418.

To obtain specific information regarding the programmatic aspects of this grant program, direct inquiries to: Mr. Arthur Testoff, Chief, Program Coordination Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 10–50, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–7230.

To be considered for Fiscal Year 1983 funding, applications must be received by the Grants Management Officer, Bureau of Health Professions, postmarked no later than December 10, 1982. Materials postmarked after that date will not be included in the review process.

This program is listed at 13.822 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in Office of Management and Budget Circular No. A–95.

Dated: September 21, 1982.

Robert Graham,

Administrator.

[FR Doc. 82–26928 Filed 9–29–82; 8:45 am]

BILLING CODE 4160–15–M

Office of Human Development Services

Revised Federal Allotments to States for Social Services Expenditures Pursuant to the Title XX—Social Services Block Grant Act; Promulgation for Fiscal Year 1983

AGENCY: Office of Program Coordination and Review, Office of Human Development Services, Department of Health and Human Services.

ACTION: Revised Notification of Allocation of Title XX—Social Services Block Grant Allotments for Fiscal Year 1983.

SUMMARY: Public Law 97–248, enacted September 3, 1982, among other things, amended Sec. 1101(a) of the Social Security Act, as amended, (Act) to define the term State when used in Title XX to no longer include American Samoa and the Trust Territory of the Pacific Islands.

The Federal allotments to States for social services under Section 2003 of the Act which were promulgated in Vol. 46, No. 229 of the **Federal Register** page 58186 on November 30, 1981, included American Samoa and the Trust Territory of the Pacific Islands.

Accordingly, the promulgation contained in such document is rescinded and the promulgation, as revised, is set forth in this issuance.

FOR FURTHER INFORMATION CONTACT: HDS Regional Administrators.

SUPPLEMENTAL INFORMATION: Section 2003 of the Social Security Act authorizes $2.45 billion for Fiscal Year 1983 and provides that it be allocated as follows:

(1) Puerto Rico, Guam, the Virgin Islands, and the Northern Marianas Islands each receive an amount which bears the same ratio to $2.45 billion as its allocation for Fiscal Year 1981 bore to $2.9 billion;

(2) The remainder of the $2.45 billion is allotted to each State in the same proportion as that State's population is to the population of all States, based upon the most recent data available from the Department of Commerce.

For Fiscal Year 1983, the allotments are based upon the Bureau of Census 1980 Decennial Census.

The allotments to the States published here are based upon the authorization set forth in Section 2003 of the Social Security Act and are contingent upon Congressional Appropriations Actions for the Fiscal Year. If the Congress enacts and the President approves an amount different from the authorization, the allotments would be adjusted proportionately.

EFFECTIVE DATE: These allotments shall be effective October 1, 1982.

FY 1983 Revised Federal Allotments to States for Social Services—Title XX Block Grants

Block grants	
Total	$2,450,000,000
Alabama	41,843,292
Alaska	4,302,652
Arizona	29,236,521
Arkansas	24,589,657
California	254,598,682
Colorado	31,075,905
Connecticut	33,431,607
Delaware	6,400,195
District of Columbia	6,862,730
Florida	104,769,579
Georgia	58,774,228
Guam	422,414
Hawaii	10,380,148
Idaho	10,154,259
Illinois	122,819,205
Indiana	59,053,900
Iowa	31,334,064
Kansas	25,417,917
Kentucky	39,380,023
Louisiana	45,220,874
Maine	12,101,209
Maryland	45,349,953
Massachusetts	61,710,788
Michigan	99,584,883
Minnesota	43,854,782
Mississippi	27,117,465
Missouri	52,890,351
Montana	8,465,468
Nebraska	16,887,910
Nevada	8,594,548
New Hamsphire	9,906,856
New Jersey	79,211,825
New Mexico	13,983,619
New York	188,854,158
North Carolina	63,184,446
North Dakota	7,024,080
Northern Marianas	84,483
Ohio	116,139,337
Oklahoma	32,538,807
Oregon	28,322,208
Pennsylvania	127,648,932
Puerto Rico	12,672,414
Rhode Island	10,186,529
South Carolina	33,549,930
South Dakota	7,422,075
Tennessee	49,383,690
Texas	153,045,336
Utah	15,715,437
Vermont	5,496,638
Virgin Islands	422,414
Virginia	57,504,946
Washington	44,424,883
West Virginia	20,975,429
Wisconsin	50,609,946
Wyoming	5,066,373

Dated: September 24, 1982.

Michio Suzuki,

Acting Director, Office of Program Coordination and Review.

Approved: September 27, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 82-27023 Filed 9-29-82; 8:45 am]

BILLING CODE 4130-01-M

Public Health Service

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1982:

Name: Health Services Developmental Grants Review Subcommittee
Date and time: October 14–15, 1982, 8:30 a.m.
Place: Washington Circle Inn, Rock Creek Room, 2430 Pennsylvania Avenue NW., Washington, D.C.
Open October 14, 8:30 a.m.–9:30 a.m.
Closed for remainder of meeting.
Purpose: The Subcommittee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session of the meeting on October 14, 1982 will be devoted to a business meeting covering administrative matters and reports. During the closed sessions the Subcommittee will be reviewing research grant applications relating to the delivery, organization and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Ms. Elinor Walker, National Center for Health Services Research, OASH, Room 7–50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–6920.

* * * * *

Name: Health Services Research Review Subcommittee
Date and time: October 20–21, 1982, 8:30 a.m.
Place: Gramercy Inn, South Scott Room, 1616 Rhode Island Avenue, NW., Washington, D.C. 20036
Open October 20, 8:30 a.m.–9:30 a.m.
Closed for remainder of meeting.
Purpose: The objectives of the Subcommittee is to advise the Secretary and make recommendation to the Director, National Center for Health Services Research, concerning the scientific and technical merit review of health services research grant applications involving primarily the analysis and use of economic, statistical, and other theoretical approaches which examine problems associated with the delivery of health services.
Agenda: The open session of the meeting on October 20, 1982 will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Anthony Pollitt, Ph.D., National Center for Health Services Research, OASH, Room 7–50A,

Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-6920.

* * * * *

Name: Health Care Technology Study Section
Date and time: October 28-29, 1982, 8:30 a.m.
Place: Auditorium, Francis A. Countway Library of Medicine, Harvard Medical School, 10 Shattuck Street, Boston, Massachusetts 02115
Open October 28, 8:30 a.m. to 10:00 a.m.
Closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of health research grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research (NCHSR).
Agenda: The open session of the meeting on October 28 will include a presentation by the Acting Director, NCHSR, and a business meeting covering administrative matters and reports. The closed portion of the meeting will be utilized in a review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-6920.

Agenda items are subject to change as priorities dictate.

Dated: September 24, 1982.

Harold Margulies,

Acting Deputy Assistant Secretary for Health Research, Statistics, and Technology.

[FR Doc. 82-26983 Filed 9-29-82; 8:45 am]
BILLING CODE 4160-17-M

Office of the Secretary

Privacy Act; Report on New System

AGENCY: Department of Health and Human Services.

ACTION: Notification of report on new system, "Civil and Administrative investigative files of the Inspector General, HHS/OS/OIG".

SUMMARY: The Department of Health and Human Services proposes to establish a new system of records entitled "Civil and Administrative Investigative Files of the Inspector General, HHS/OS/OIG", under the Privacy Act, 5 U.S.C. 552a. The Office of Inspector General (OIG) is authorized to gather information for civil and administrative law enforcement purposes under Pub. L. 94-505, establishing the HHS Office of Inspector General, and section 1128A of the Social Security Act, authorizing civil money penalties for the filing of false claims in certain health care financing programs. The Department is requesting public comments on the routine uses in the system.

DATES: The Department has sent new systems reports to the Congress and OMB on September 23, 1982. Comments on the proposed routine uses must be received by November 1, 1982. The provisions of the systems notice will be operational 60 days from the date submitted to OMB.

ADDRESS: Comments should be addressed to Richard McGowan, Public Affairs Officer, Office of Inspector general, Department of Health and Human Services, Room 5267 North Building, 330 Independence Avenue, SW., Washington, D.C. 20201. Comments received will be available for inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Richard McGowan, Public Affairs Officer, Office of Inspector General, Department of Health and Human Services, at the above address or call (202) 472-3142.

SUPPLEMENTARY INFORMATION: The Office of Inspector General is expanding its responsibilities in the area of civil and administrative investigations involving DHHS programs and operations. This requires the establishment of a records system to document the investigations which will be conducted by the OIG or other investigative agencies; to improve the tracking of reviews conducted because of allegations and complaints received by DHHS or other agencies concerning DHHS programs, or current or former HHS personnel; to impove the reporting of the results of civil and administrative investigations to other components of the Department for their use in the operation and evaluation of their programs; and to assist in civil and administrative proceedings, including proceedings under section 1128A of the Social Security Act (establishing civil monetary penalties in the Medicare, Medicaid, and Maternal and Child health programs). The minimum amount of data on individuals will be maintained, consistent with generally accepted auditing and investigative standards.

The Office of Inspector General adheres to all appropriate security provisions and safeguards over the data. Access is strictly controlled.

The routine use disclosures provided for in the notice are necessary to accomplish the criminal, civil and administrative investigative purposes of the system of records as described above or are compatible with the collection of data for investigative purposes. Disclosures will also be made in accordance with other disclosure provisions of the Privacy Act (5 U.S.C. 552a(b)).

Dated: September 23, 1982.

R. P. Kusserow,

Inspector General.

09-90-0100

SYSTEM NAME:

Civil and Administrative Investigative Files of the Inspector General.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Inspector General, Department of Health and Human Services, 330 Independence Avenue, SW., Washington, D.C. 20201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HHS employees and former employees; HHS grantees; contractors, sub-contractors and their employees; employees of state agencies and Medicare carriers and intermediaries; Medicare and Medicaid providers; recipients under programs administered or funded by the Department; and others doing business with the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Civil and administrative investigative records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 94-505; section 1128A of the Social Security Act.

PURPOSE(S):

Pursuant to Pub. L. 94-505, this system is maintained for the purpose of conducting and documenting civil and administrative investigations conducted by OIG or other investigative agencies regarding HHS programs and operations, documenting the results of OIG reviews of allegations and complaints received concerning HHS programs, HHS personnel or former personnel, aiding in administrative proceedings or civil suits brought against the subjects of OIG investigations, maintaining a record of the activities which were the subject of civil and administrative investigations, reporting the results of civil and administrative investigations to other departmental components for their use in evaluating their programs and in imposition of civil or administrative

sanctions, and acting as a repository and source for information necessary to fulfill the reporting requirements of 42 U.S.C. 3524. This system is also maintained for the purpose of conducting and documenting the results of reviews, including computer matches, which identify individuals who are not entitled to benefits under programs financed by the Department, whether administered by federal, state or local government agencies, or who are delinquent on loan payments due under federally funded programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used as follows:

(1) In the event that this system of records maintained by this Agency to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, foreign, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto where such responsibility rests outside of OIG.

(2) Disclosures may be made to federal, state, or local agencies where disclosure is necessary in order to obtain records relevant and necessary to a civil or administrative investigation of the Office of Inspector General.

(3) Disclosures may be made to a federal agency where records in this system of records pertain to an applicant for employment, or to a current employee of that agency where the records are relevant and necessary to an agency decision with regard to the hiring or retention of an employee or disciplinary or other administrative action concerning an employee.

Disclosures may be made to a federal agency in response to its request in connection with the issuance of a security clearance, the award of a contract, or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

(4) Disclosures may be made to the Office of Personnel Management or the Merit Systems Protection Board (including the Office of the Special Council) of information relevant and necessary to carrying out their functions.

(5) Disclosures may be made to third party contacts where the party contacted may have information needed to establish or verify information relevant and necessary to a civil or administrative investigation by the OIG or in preparation for proceedings pursuant to section 1128A of the Social Security Act, and "Civil Money Penalties".

(6) Disclosures may be made to federal, state, and local agencies, or to other entities administrating federally funded programs where necessary to take action based on an OIG investigation or audit which identifies individuals not entitled to program benefits or individuals delinquent on loan payments under federally funded programs.

(7) Disclosures may be made when the Department contemplates that it will contract with private firms for the purpose of collating, analyzing, aggregating or otherwise refining records. Disclosures will also be made to independent auditors who by contract carry out audits on behalf of the Department. Such contractors will be required to maintain Privacy Act safeguards with respect to such records.

(8) Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

(9) In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

(10) In event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems necessary to the Department of Justice to enable that Department to present an effective defense.

(11) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

The records, which take the form of index cards, investigative reports, printed material, computer tape files, computer-generated printouts and other audit and investigative workpapers are stored in (1) secured areas, (2) locked rooms, and/or (3) locked cabinets.

RETRIEVABILITY:

Records are retrieved by manual or computer search of alphabetical or numerical indices or cross-indices.

SAFEGUARDS:

Direct access is restricted to authorized staff members of the OIG; access within HHS is limited to the Secretary, Under Secretary, and other officials and employees on a need-to-know basis. All computer files are safeguarded as described under *Storage* and in accordance with the provisions of the National Bureau of Standards Federal Information Processing Standards 41, and HHS Information Processing Standards, HHS ADP Systems Manual, Part 6, "ADP Systems Security". We protect all computer tapes by the use of passwords to prohibit unauthorized access.

RETENTION AND DISPOSAL:

Investigative files are retained for 6 years after completion of the investigation and/or actions based thereon. Index and cross-reference cards are retained permanently. In instances of computer matching of files, only those records which meet predetermined criteria for investigation are maintained. All records which do not meet these criteria are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General/Deputy Inspector General, Room 5250, North Building, U.S. Department of Health and Human Services, 330 Independence Avenue, S.W., Washington, D.C. 20201.

NOTIFICATION PROCEDURE:

Exempt. However, consideration will be given requests addressed to the system manager. For general inquiries, include the name and date of birth of the individual.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Exempt. However, consideration will be given requests addressed to the

systems manager. Requests for correction should reasonably identify the record and specify the information to be contested, the corrective action sought and the reasons for the correction with supporting justification.

RECORD SOURCE CATEGORIES:

Department and other federal, state and local government records; interviews of witnesses; documents and other material furnished by non-governmental sources. Sources may include confidential sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Exempt from certain provisions of the Act under 5 U.S.C. 552a(k)(2). Pursuant to 45 CFR 5b.11(b)(2)(ii)(D), this system is exempt from the following subsections of the Act: (c)(3), (d)(1)–(4), and (e)(4) (G) and (H).

[FR Doc. 82-26974 Filed 9-29-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Pueblo de Cochiti Reservation, N. Mex., Ordinance Amending the Pueblo de Cochiti; Liquor Ordinance of 1966

September 14, 1982.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that the following Ordinance amending the Pueblo de Cochiti Liquor Ordinance which was published in the **Federal Register** on September 13, 1966, relating to the application of the Federal Indian Liquor Laws on the Pueblo de Cochiti Reservation, New Mexico, was duly adopted on May 26, 1981 by the Council of the Pueblo de Cochiti which has jurisdiction over the area of Indian country included in the ordinance, reading as follows:

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Amended Ordinance

This amended ordinance duly enacted this 26th day of May, 1981, by the Council of the Pueblo of Cochiti, the duly authorized and recognized governing body of the Pueblo de Cochiti, an Indian Tribe having accepted the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984, 25 U.S.C., Sec. 578).

Whereas, the Act of Congress of August 15, 1953 (67 Stat. 586) empowers Indian Tribes having appropriate jurisdiction to enact an Ordinance legalizing the introduction, sale and possession of intoxicating beverages within any area of Indian Country coming within the jurisdiction of such tribe; and

Whereas, the Council of the Pueblo de Cochiti has heretofore, on May 22, 1966, enacted an ordinance legalizing the introduction, sale and possession of intoxicating beverages within the Indian country subject to the jurisdiction of the Pueblo de Cochiti, which ordinance was certified by the Secretary of the Interior and published in the **Federal Register** on September 13, 1966, as required by Federal law; and

Whereas, the Tenth Circuit Court of Appeals, in the case of *United States of America* v. *State of New Mexico, et al.*, has ruled that the State of New Mexico has no jurisdiction to require the State licensing of liquor outlets located on Indian reservations; and

Whereas, the Pueblo of Cochiti Council has determined that the said ordinance of May 22, 1966, must be amended to conform with the standards set forth in the said decision of the Tenth Circuit Court of Appeals, and authorizing the Pueblo of Cochiti council to issue licenses and to adopt regulations for the licensing of liquor outlets on the Pueblo of Cochiti reservation.

Whereas, the original of this instrument has been lost or mislaid and this instrument is executed and signed as a duplicate original of the Amended Ordinance enacted the 26th day of May, 1981.

Now, therefore, be it ordained and enacted as follows:

Section 1: The introduction, sale and possession of intoxicating beverages shall be lawful within the Indian country under the jurisdiction of the Pueblo de Cochiti, subject, however, to the following provisions: (a) Except as set forth in (b) of this Section, and to the extent required by Federal law, such introduction, sale and possession is in conformity with the laws of the State of New Mexico; (b) No license from the State of New Mexico or any department, agency of political subdivision, thereof shall be required to operate an establishment for the sale or dispensing of alcoholic beverages within the Indian country subject to the jurisdiction of the Pueblo de Cochiti, provided, however, that nothing in this ordinance shall affect the validity of the present liquor dispenser's license No. 148 from the State of New Mexico held by the Pueblo de Cochiti; (c) the sale of intoxicating beverages within such Indian country by any person other than the Pueblo de Cochiti shall be pursuant to license and regulations issued by the Pueblo de Cochiti Council.

Section 2: The Pueblo de Cochiti Council is hereby vested with full power and authority to adopt regulations pursuant to and consistent with this ordinance.

Section 3: Any laws, resolutions or ordinances of the Pueblo de Cochiti in conflict with the provisions of this Ordinance are hereby repealed. Specifically, the said Ordinance of May 22, 1966 is hereby amended to conform to this Ordinance.

Section 4: In the event any provision of this Ordinance is held to be invalid, or the application of this Ordinance or any provision thereof to any person or circumstances is held to be invalid, the remaining provision for the application of this Ordinance or any provision thereof to other persons or circumstances shall not be affected by such invalidity and to such extent, the terms and provisions of this Ordinance are declared to be severable.

Section 5: The Ordinance shall be effective upon its certification by the Secretary of the Interior and its publication in the **Federal Register.**

Duly ordained, enacted and adopted this 26th day of May, 1981.

Attest:

Marcus Z. Chalari,
Secretary.
Isaac P. Henero,
Governor.
Arnold Herrara,
Lt. Governor.
Joseph C. Benado,
Member of Council.
Tom Herrera,
Member of Council.
Michael Suina,
Member of Council.
Joe A. Romero,
Member of Council.
Marcello Suina,
Member of Council.

[FR Doc. 82-26925 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-02-M

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

September 15, 1982.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the American Indian Council of Mariposa County, c/o Mr. Les James, P.O. Box 273, El Portal, California 95318, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on April 24, 1982. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) formerly 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as

other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-26924 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-02-M

Selection, Designation, Development, and Termination of Designation of Contracting Officers

July 30, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: General Notice.

SUMMARY: The Bureau of Indian Affairs of the Department of the Interior gives notice that §§ 14H-1.451, 14H-1.451-2, and 14H-1.451-6 that govern the selection, designation, development, and termination of designation of Contracting Officers under 41 CFR Part 14H-1 have been revoked. (See 47 FR 26950 published in the rules section of this issue. Check the Table of Contents for the page citation).

Henceforth, acquisition authority and responsibility shall be governed by the Interior Procurement Regulation System (41 CFR 14-1.404), Interior Procurement Memorandum (IPM 82-5) dated January 29, 1982, and 19 BIAM Supplement 1.

FOR FURTHER INFORMATION CONTACT: Dr. Peter A. Campanelli, Department of the Interior, Bureau of Indian Affairs, Washington, D.C. 20245, telephone number (202) 343-5125.

SUPPLEMENTARY INFORMATION: This notice is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. Title 41 CFR Part 14H-1, §§ 1.451, 1.451-2, and 1.451-6 vested acquisition authority and responsibility for the Bureau of Indian Affairs in organizational titles and positions. The implementation of the Contracting Officers' Warrant System requires the selection, designation, certification, and maintenance of Contracting Officers based on their meeting experience, training, and performance requirements. Contracting Officers will be selected and appointed in compliance with the Interior Procurement Regulation System (41 CFR 14-1.404), Interior Procurement Memorandum (IPM 82-5) dated January 29, 1982, and 19 BIAM Supplement 1.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-26951 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AA-6986-A, AA-6986-C]

Alaska Native Claims Selection

On December 12 and 16, 1974, Cape Fox Corporation for the Native village of Saxman, filed selection applications AA-6986-A and AA-6986-C respectively, as amended, under the provisions of Section 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971, as amended, 43 U.S.C. 1601, 1615(b) (1976) (ANCSA), for the surface estate of certain lands located in the Tongass National Forest in the vicinity of Saxman and Ketchikan.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act of December 18, 1971 and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Section 16(b) of ANSCA, aggregating approximately 1,605 acres, is considered proper for acquisition by Cape Fox Corporation and is hereby approved for conveyance pursuant to Sec. 14(b) of ANCSA:

The unpatented portions of Mineral Survey No. 2226, Whipple Creek No. 1 and Whipple Creek No. 2.

Containing 4.22 acres.

Copper River Meridian, Alaska (Partially Surveyed)

T. 74 S., R. 90 E.,
Sec. 8, S½SE¼;
Sec. 9, S½SW¼;
Sec. 16, S½;
Sec. 17, NE¼, E½NW¼, S½;
Sec. 19, E½ excluding U.S. Survey No. 3848, U.S. Survey No. 3768, U.S. Survey No. 3703, U.S. Survey No. 2603, U.S. Survey No. 2604 and Mineral Survey No. 2226;
Sec. 20, NE¼NE¼, W½NE¼, NW¼;
Sec. 21, N½NW¼.

Containing approximately 1,601 acres.
Aggregating approximately 1,605 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

There are no inland water bodies considered to be navigable within the above-described lands.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Section 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Section 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1621(k), that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands;

4. Requirements of sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Cape Fox Corporation is entitled to conveyance of 23,040 acres of land selected pursuant to Section 16(b) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 19,387 acres. The remaining entitlement of approximately 3,653 acres will be conveyed at a later date.

Pursuant to Section 14(f) of ANCSA and Departmental regulation 43 CFR

2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Sealaska Corporation when the surface estate is conveyed to Cape Fox Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Section 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village shall be subject to the consent of Cape Fox Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Ketchikan daily news.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until November 1, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–..5, Anchorage, Alaska 99510

Cape Fox Corporation, P.O. Box 8558, Ketchikan, Alaska 99901

Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–26992 Filed 9–29–82; 8:45 am]

BILLING CODE 4310–84–M

[F–14840–A, F–14840–B]

Alaska Native Claims Selection

On Octover 22, 1974, Tihteet', Inc., for the Native village of Birch Creek, filed selection application F–14840–A and on December 16, 1974, filed selection application F–14880–B, as amended, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Birch Creek, Alaska.

Tihteet' Aii, Inc., in its application, excluded the following bodies of water as being navigable:

Twin Island Lake located in Secs. 13, 14, 15, 22, 23, 24, and 26, T. 16 N., R. 9 E., Fairbanks Meridian;

Chloya Lake located in Secs. 6, 7, 8 17, 18, 19, and 20, T. 16 N., R. 9 E., Fairbanks Meridian;

Unnamed lake in Secs. 7, 17, 18, 19, and 20, T. 17 N., R. 9 E., Fairbanks Meridian;

Unnamed lake in Secs. 15, 16, 21, and 22, T. 16 N., R. 9 E., Fairbanks Meridian; and

Unnamed lake in Secs. 8, 9, 10, 15, 16, and 17, N., R. 8 E., Fairbanks Meridian.

Because these water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Section 12(a) of ANCSA.

Section 12(a) of ANCSA and Departmental regulation 43 CFR 2651.4(b) and (c) provide that the village corporation shall select all available lands within the township or townships within which the village is located. The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries.

For these reasons the water bodies which were improperly excluded in the applications of Tihteet' Aii, Inc., are considered selected.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Section 12(a) of ANCSA, as amended, aggregating approximately 64,230 acres, is considered proper for acquisition by Tihteet' Aii, Inc., and is hereby approved for conveyance pursuant to Section 14(a) of ANCSA:

Fairbanks Meridian, Alaska (Unsurveyed)

T. 17 N., R. 8 E.,
Secs 7 to 36, inclusive.
Containing approximately 18,488 acres.

T. 16 N., R. 9 E.,
Sec. 1, excluding Native allotments F–12005 and F–17136;
Sec. 2, excluding Native allotment F–12005;
Secs. 3 and 4;
Sec. 5, excluding Native allotment F–14715;
Sec. 6, excluding Native allotment F–14726;
Sec. 7, excluding Native allotments F–14714 and F–14726;
Sec. 8, excluding Native allotments F–13836, F–14714, and F–14715;
Secs. 9, 10, and 11;
Sec. 12, excluding Native allotments F–023054 Parcel C and F–17136;
Sec. 13, excluding Native allotment F–023054 Parcel C;
Secs. 14, 15, and 16;
Sec. 17, excluding Native allotment F–13836;
Sec. 18, excluding Native allotments F–14716 Parcel B and F–17740 Parcel B;
Secs. 19, 20, and 21;
Sec. 22, excluding Native allotment F–12006;
Sec. 23, excluding Native allotment F–023054 Parcel B;
Sec. 24;
Sec. 25, excluding Native allotment F–14728
Secs. 26 and 27.
Containing approximately 15,829 acres.

T. 17 N., R. 9 E.,
Secs. 1 to 25, inclusive;
Sec. 26, excluding Native allotment F–12003 Parcel A;
Secs. 27 and 28, excluding U.S. Survey No. 4481 and those lands within Airport lease F–21745;
Secs. 29 to 32, inclusive;
Sec. 33, excluding U.S. Survey No. 4481 andd Native allotments F–023054 Parcel A;
Sec. 34, excluding U.S. Survey No. 4481;
Secs. 35 and 36.

Containing approximately 22,597 acres.
T. 17 N., R. 10 E.,
Secs. 25 to 36, inclusive.
Containing approximately 7,316 acres.
Aggregating approximately 64,230 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14840–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reasons: Lands are no longer under Federal jurisdiction or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14840–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 1 C4, C5, M) A one (1) acre site easement upland of the ordinary high water mark on the right bank of Lower Mouth Birch Creek, in Sec. 25, T. 17 N., R. 10 E., Fairbanks Meridian. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 3 C5, M) A one (1) acre site easement upland of the ordinary high water mark on the left bank of Lower Mouth Birch Creek, in Sec. 34, T. 17 N., R. 8 E., Fairbanks Meridian. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 12 C5, M) A one (1) acre site easement upland of the ordinary high water mark on the right bank of Beaver Creek, in Sec. 33, T. 17 N., R. 8 E., Fairbanks Meridian. The uses allowed are those listed above for a one (1) acre site.

d. (EIN 21 M) An easement for an existing access trail twenty-five (25) feet in width from the village of Birch Creek in Secs. 33 and 34, T. 17 N., R. 9 E., Fairbanks Meridian, northerly to public lands and on to Ft. Yukon. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 26 C5) An easement for an existing access trail twenty-five (25) feet in width from Beaver Creek in Sec. 33, T. 17 N., R. 8 E., Fairbanks Meridian, easterly to Lower Mouth Birch Creek. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 32 E) An easement for a proposed access trail twenty-five (25) feet in width from trail EIN 21 M in Sec. 36,T. 18 N., R. 9 E., Fairbanks Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Section 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. The following third-party interest, identified by the U.S. Department of the Interior, Fish and Wildlife Service, as provided by Section 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(g)):

A granted road right-of-way permit, R–45–YF (formerly F–33840) issued to the State of Alaska, Department of Transportation and Public Facilities, to use and occupy certain lands on the Yukon Flats National Wildlife Refuge, for the purpose of maintenance of a public road from the village of Birch Creek to the Birch Creek Airport, located in Secs. 27 and 28, T. 17 N., R. 9 E., Fairbanks Meridian; and

4. Requirements of Section 14(c) of the Alaska Native claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Tihteet' Aii, Inc., is entitled to conveyance of 69,120 acres of land selected pursuant to Section 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 64,230 acres. The remaining entitlement of approximately 4,890 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Doyon, Limited, when the surface estate is conveyed to Tihteet' Aii, Inc., and shall be subject to the same conditions as the surface conveyance, except for those provisions under Section 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Birch Creek shall be subject to the consent of Tihteet' Aii, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Fedral Register** and once a week,

for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until November 1, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Tihteet' Aii, Inc., Birch Creek Village, via Fort Yukon, Alaska 99740.

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26993 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

California Desert District; Harper Dry Lake Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Partial closure of ACEC to vehicle use.

SUMMARY: The closure is being implemented to protect significant and sensitive wildlife values from inadvertent damage caused by vehicle use. The authorities for the management plans vehicle closure are 43 CFR 8000.0–6, 8340, 8341, 8342, and 8364, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, and the Sikes Act of 1974. The area affected by this designation is the Harper Dry Lake ACEC. The ACEC contains approximately 480 acres of BLM managed public lands in San Bernardino County. The designation is a result of a management plan for the ACEC which included public involvement. The ACEC Management Plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan.

DATE: Effective September 15, 1982.

ADDRESS: Send inquiries to Area Manager, Barstow Resource Area, 831 Barstow Road, Barstow, California 92311. The ACEC Management Plan and public comments received will be available at the above address from 8 a.m. to 4:15 p.m. on regular working days. For further information contact Theodore Rado at the above address or (714) 256–3595. Under the authority provided in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Executive Order 11644 (Use of Off-Road Vehicles on Public Lands), and the Sikes Act of 1974.

Vehicle Use

Vehicle use within the ACEC will not be permitted within 100 yards of marsh habitat. The area will be clearly signed. Vehicle use within remaining portions of the ACEC will be restricted to designated routes or to landsailing activities. A map showing the closed area is available for review at the Barstow Resource Area Office, 831 Barstow Road, Barstow, California. Copies of the map are available upon request from the same office.

The purpose of these regulations is to minimize conflicts between vehicle use and protection and enhancement of wildlife values. The public lands within the ACEC will remain open to other resources uses not in conflict with the objectives of the ACEC Management Plan. Administrative access by vehicle into areas closed to vehicle access for BLM personnel, BLM contractors, licensees, permittees, lessees, and other federal, state, and county employees is allowed when on official duty and when cleared beforehand by the authorized officer.

Dated: September 20, 1982.

Gerald E. Hillier,

District Manager.

[FR Doc. 82-26914 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

California Desert District; Salt Creek Hills Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Partial closure of ACEC to vehicle use.

SUMMARY: The closure is being implemented to protect significant and sensitive wildlife values from inadvertent damage caused by vehicle use. The authorities for the management plans vehicle closure are 43 CFR 8000.0–6, 8340, 8341, 8342, and 8364, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, and the Sikes Act of 1974. The area affected by this designation is the Salt Creek Hills ACEC. The ACEC contains approximately 2,000 acres of BLM managed public lands in northeastern San Bernardino County. The designation is a result of a management plan for the ACEC which included public involvement. The ACEC Management Plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan.

DATE: Effective September 15, 1982.

ADDRESS: Send inquiries to Area Manager, Barstow Resource Area, 831 Barstow Road, Barstow, California 92311. The ACEC Management Plan and public comments received will be available at the above address from 8:00 A.M. to 4:15 P.M. on regular working days.Q02

FOR FURTHER INFORMATION CONTACT: Theodore Rado at the above address or (714) 256–3595.

Under the authority provided in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Executive Order 11644 (Use of Off-Road Vehicles on Public Lands), and the Sikes Act of 1974.

Vehicle Use

Vehicle use within the ACEC will be restricted to a single existing route which provides access from State Highway 127. Vehicles will not be allowed in remaining areas. The area will be clearly signed. A map showing the ACEC boundary and single designated vehicle route is available for review at the Barstow Resource Area Office, 831 Barstow Road, Barstow, California. Copies of the map are available upon request from the same office.

The purpose of these regulations is to minimize conflicts between vehicle use in the area and protection and enhancement of wildlife values. The public lands within the ACEC will remain open to other resources uses not in conflict with the objectives of the ACEC Management Plan.
Administrative access by vehicle into areas closed to vehicle access for BLM personnel, BLM contractors, licensees, permittees, lesses, and other federal, state, and county employees is allowed when on official duty and when cleared beforehand by the authorized officer.

Dated: September 21, 1982.

Wesley T. Chambers,

Acting District Manager.

[FR Doc. 82-26915 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

Montana and North Dakota; Availability of Supplemental Material to the Draft Environmental Impact Statement for Coal Leasing In the Fort Union Coal Region and Extension of Review Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In the Federal Register Notice of August 6, 1982, Vol. 47, No. 73, pages 34201–34202, a notice was given of the availability of the Draft Environmental Impact Statement (DEIS) for coal leasing in the Fort Union Coal Region. Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM), the Department of the Interior, has prepared supplemental material for the DEIS evaluating the air quality effects of coal development in the Fort Union Coal Region. This material has been prepared to provide public information resulting from contractual study results of air quality modeling in the study area. Copies have been provided to all reviewers of the subject DEIS. Because of this additional material the DEIS review date is also being extended to enable reviewers to comment on both the DEIS and the Air Quality Report.

DATES: Written comments on the air quality supplemental report and the Deis will be accepted up to and including October 19, 1982.

ADDRESSES: Written comments on the DEIS and Air Quality Report are to be addressed to, and copies of the document may be obtained from, Lloyd Emmons, Fort Union Coal Project Staff, Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107. The draft EIS and Air Quality Report are available for inspection at the following locations:

Montana State Office Public Room, Bureau of Land Management, 222 North 32nd Street, Billings, Montana 59107

Dickinson District Office, Gate City Savings & Loan Building, 204 Sims Street, P.O. Box 1229, Dickinson, North Dakota 58601

Miles City District, Bureau of Land Management, West of Miles City on Garry Owen Road, P.O. Box 940, Miles City, Montana 59301

Office of Public Affairs, Bureau of Land Management, 18th & C Streets, NW., Washington, D.C. 20240

Dated: September 24, 1982.

Robert F. Burford,

Director, Bureau of Land Management.

I Concur:

Bruce Blanchard,

Director Office of Environmental Policy Review, Department of the Interior.

[FR Doc. 82-26919 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

Winnemucca District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Winnemucca District Grazing Board will be held on November 18, 1982. The meeting will begin at 10:00 A.M. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include:

1. Water rights policy.
2. Annual Work Plan Fiscal Year 1983.
3. Update on Wild Horse/Burro Program.
4. CRMP update.
5. Wilderness EIS update.
6. Direction on use of 8100 funds.
7. Grazing Management Policy—MIC Categories. Discussion of final selective management criteria (MIC), and resultant Allotment Categories.
8. Management Framework Plan Step III.
9. Public Statements.
10. Grazing Fee Study.
11. Arrangement for next meeting and discussion of agenda items.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:00 and 2:00 P.M. on November 18, 1982 or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445, by November 5, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: September 21, 1982.

Frank C. Shields,

District Manager for State Director, Nevada.

[FR Doc. 82-26916 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Realty Action

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action, I-18928, parcel No. 1 and parcel No. 2, modified competitive sale of public lands in Owyhee County, Idaho. The sale will be held at the Boise District Office, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, at 1:00 p.m. on Wednesday, December 8, 1982. Parcel No. 1 will be sold first. Immediately thereafter Parcel No. 2 will be sold.

SUMMARY: The following-described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the fair market value of $9,500 for Parcel No. 1 and $1,550 for Parcel No. 2.

Boise Meridian, Idaho

Parcel No. 1–T. 6 S., R. 5 W.,
Sec. 20, SW¼SW¼SE¼SW¼;
Sec. 28, SE¼SW¼NW¼NW¼, SW¼SW¼NE¼, S½SE¼NE¼NW¼, NW¼NW¼SE¼;
Sec. 29, NE¼SW¼NE¼, E½NW¼SW¼NE¼, SE¼NE¼NE¼SE¼.

47.5 acres.

Parcel No. 2–T. 6 S., R. 6 W.,
Sec. 13: N½NW¼NW¼SW¼, N½SE¼N W¼NW¼SW¼.
6.25 acres.

The land will be sold at public auction by modified competitive bidding.

Walter E. Morgan, Jordan Valley, Oregon 97910, the adjoining landowner of Parcel No. 1, will be the designated bidder to have a preference right to purchase Parcel No. 1 by meeting the highest bid. Such preference right is offered because Mr. Morgan is the historical user, has improvements on the land that are critical to the operation of his ranch.

Terry Warn, Jordan Valley, Oregon 97910, the adjoining landowner of Parcel No. 2, will be the designated bidder to have a preference right to purchase Parcel No. 2 at the highest bid. Such preference right is offered because Mr. Warn is the historical user, and has irrigated hay ground and irrigation ditches on the land that are an integral part of this operation.

The land has not been used for, and is not required for any Federal purpose. The location and physical characteristics of the parcels make it difficult and uneconomical to manage as public land. Disposal would not have any significant effect on resource values and would best serve the public interest.

A patent for the land, when issued, will be subject to the following conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals will be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record.

Walter E. Morgan is the owner of the following valuable permanent improvements on the lands offered for sale, Parcel No. 1. If any person, other than Walter E. Morgan is the successful bidder on the lands being offered for sale, that person will be required to reimburse Walter E. Morgan for value of the improvements and furnish proof thereof to the Boise District Manager before conveyance may be made: barn and corrals.

Bidding Information and Instructions

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders must be citizens of the United States, 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state or the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value of $9,500 for Parcel No. 1 and $1,550 for Parcel No. 2. Bids must be for all the land.

Method of Bidding: Bids may be made either by mail or personally at the sale. Bids sent by mail will only be considered if received at the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705, prior to 4:30 p.m. on December 7, 1982. Bids sent by mail must be in sealed envelopes accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. Applicants bidding on more than one parcel shall submit bids in separate envelopes with the parcel numbers on the outside of the envelope. All sealed envelopes must be marked in the lower left-hand corner, "Sealed Bid, Public Land Sale I–18928, Parcel No. 1 or Parcel No. 2. Sale to be December 8, 1982." If two or more valid sealed bids in the same amount are received and they are the high bid, the determination of which is to be considered the highest bid shall be by a drawing. The drawing, if required, shall be held immediately following the opening of the bids. The highest qualifying sealed bid shall then be announced.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid will be the base for oral bids. All oral bids must be in increments of not less than $20.00. Sealed bidders present at the sale may also make oral bids. The highest bid price, either sealed or oral, will establish the sale price.

Modified Bidding: For a period of 30 days following the date of sale, Walter E. Morgan, Parcel No. 1, and Terry Warn, Parcel No. 2 will have a preference right to purchase the land by meeting the highest bid. If they meet the highest bid, the land will be sold to them, and the other low bids will be returned. Refusal or failure by the designated bidder to meet the highest bid shall constitute a loss of preference rights, and the land will be sold to the highest bidder.

Final Details: Once a high bid is accepted, the successful bidder shall submit the balance of the full bid price within the time designated by the authorized officer. Failure to submit the required balance within the period of time allowed will result in cancellation of the sale, and the bid deposit will be forfeited. If the high bid is accepted, the full bid price is paid, and the required citizenship or corporate qualifications are met, title to the lands will be conveyed by a patent.

Further Information/Inquiries: Detailed information concerning this sale, including the planning documents and Environmental Assessment, is available for review in the Boise District Office at the address indicated above. For a period of 45 days from the date of this notice, interested parties may submit comments to the Boise District Manager. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: September 22, 1982.

Martin J. Zimmer,

Boise District Manager.

[FR Doc. 82–26920 Filed 9–29–82; 8:45 am]

BILLING CODE 4310–84–M

Idaho; Realty Action

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action, I–18929, parcel No. 3 and parcel No. 4, competitive sale of public lands in Owyhee County, Idaho.

SUMMARY: The following-described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the fair market value of $750 for Parcel No. 3 and $1,900 for Parcel No. 4:

Boise Meridian, Idaho

Parcel No. 3–T. 6 S., R. 6 W.,
Sec. 13, NW¼NE¼NW¼SW¼.
2.5 acres.

Parcel No. 4–T. 6 S., R. 6 W.,
Sec. 13, SW¼NW¼NW¼SW¼, W½SW¼ NW¼SW¼
7.5 acres.

The land, which will be sold at public auction by competitive bidding, has not been used, and is not required for any Federal purpose. It does not complement BLM programs, and the location and physical characteristics of the parcels, along with the private ownership of adjoining lands, make it difficult and uneconomical to manage as public land. Disposal would not have any significant effect on resource values and would best serve the public interest.

A patent for the land, when issued, will be subject to the following conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals will be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record.

The sale will be held at the Boise District Office, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, 10:00 a.m., on Wednesday, December 8, 1982. Parcel No. 3 will be sold first. Immendiately thereafter Parcel No. 4 will be sold.

Bidding Information and Instructions

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders must be citizens of the United States, 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state or the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value of $750 for Parcel No. 3 and $1,900 for Parcel No. 4. Bids must be for all of the land.

Method of Bidding: Bids may be made either by mail or personally at the sale. Bids sent by mail will only be considered if received at the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705, prior to 4:30 p.m. on December 7, 1982. Bids sent by mail must be in sealed envelopes accompained by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. Applicants bidding on more than one parcel shall submit bids in separate envelopes with the parcel number on the outside of the envelope. All sealed envelopes must be marked in the lower left-hand corner, "Sealed Bid, Public Land Sale I–18929, Parcel No. 3 or Parcel No. 4. Sale to be December 8, 1982." If two or more valid sealed bids in the same amount are received and they are the high bid, the determination of which is to be considered the highest bid shall be by a drawing. The drawing, if required, shall be held immediately following the opening of the bids. The highest qualifying sealed bid shall then be announced.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid will be the base for oral bids. All oral bids must be made in increments of not less than $20.00. Sealed bidders present at the sale may also make oral bids. The highest bid price, either sealed or oral, will establish the sale price. If the highest bid is an oral bid, the successful bidder will be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, bank draft, or any combination of these.

Final Details: The successful high bidder, whether it is by sealed or oral bid, will be required to submit full payment for the balance of the bid within 30 days from the date of the sale. Failure to submit such payment within the 30-day period shall result in cancellation of the sale, and the bid deposit shall be forfeited. All unsuccessful sealed bids will be returned within 30 days from the sale date. If no bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the next Wednesday at the same hour and place and continued on each succeeding Wednesday until the lands are sold as specified in this notice or the sale is otherwise terminated.

Further Information/Inquiries: Detailed information concerning this sale, including the planning documents and Environmental Assessment, is available for review in the Boise District Office at the address indicated above. For a period of 45 days from the date of this notice, interested parties may submit comments to the Boise District Manager. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: September 22, 1982.

Martin J. Zimmer,

Boise District Manager.

[FR Doc. 82–26921 Filed 9–29–82; 8:45 am]

BILLING CODE 4310–84–M

Montana; Redelegation of Authority

September 20, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Redelegation of authority.

SUMMARY: Section 1.1(a)(2) of Bureau Order No. 701 dated July 23, 1964, as amended by notice published at 45 FR 6177 on Friday, January 24, 1980, (FR Doc. 80–2428 filed 1/24/80; 8:35 a.m.) authorizes the Bureau of Land Management State Directors the opportunity to redelegate the authority to grant, renew, modify, reassign or revoke rights-of-way under Title I, Section 28 of the Mineral Leasing Act of 1920, as amended, and under the Federal Land Policy and Management Act of 1976 to Bureau of Land Management District and Area Managers. That authority is hereby redelegated to the Butte District Manager. This notice has no other effect on the provisions of FR Doc. 80–2428.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107

Michael J. Penfold,

State Director, Montana.

[FR Doc. 82–26437 Filed 9–29–82; 8:45 am]

BILLING CODE 4310–84–M

[N–017324, et al. and N–33501, et al.]

Nevada; Realty Action, Sale of Public Land

September 20, 1982.

This Notice of Realty Action supercedes the Notices of July 2, 1981 and June 14, 1982 for the following purposes: (1) To eliminate certain parcels from further consideration for public sale, (2) to modify the method in which certain parcels will be offered for public sale and (3) modify the bidding procedures applicable to the sale of those lands offered on a competitive basis and establish the minimum bid at not less than fair market value utilizing an appraisal.

The following described parcels, originally identified in the June 14, 1982 Notice to be offered on a non-competitive basis to small tract applicants, are hereby eliminated from further consideration for public sale due to conflicts with proposed plans for an expressway:

Parcel No.	Serial No.	Legal description	Acres
		T. 20 S., R. 60 E., MDM Section 27	
82–56		NE¼SW¼NE¼SW¼	2.5
82–57		W½SW¼NE¼SW¼	5.0
82–58	Nev–033109	SE¼SW¼NE¼SW¼	2.5
82–59		E½SE¼NE¼SW¼	5.0
82–60	Nev–024640	NW¼SE¼NE¼SW¼	2.5
82–61		SW¼SE¼NE¼SW¼	2.5
82–64	Nev–033557	SE¼NW¼NW¼SW¼	2.5
82–65		E½SW¼NW¼SW¼	5.0
82–66	Nev–029643	NW¼SW¼NW¼SW¼	2.5
82–67		SW¼SW¼NW¼SW¼	2.5
82–68		NE¼SE¼NW¼SW¼	2.5
82–69		W½SE¼NW¼SW¼	5.0

Parcel No.	Serial No.	Legal description	Acres
82-70		SE¼SE¼NW¼SW¼	2.5
82-94		NW¼SW¼NE¼SE¼	2.5
82-95	Nev-031921; Nev-031859	SW¼SW¼NE¼SE¼	2.5
82-104		NE¼SW¼NW¼SE¼	2.5
82-105		NW¼SW¼NW¼SE¼	2.5
82-106		SW¼SW¼NW¼SE¼	2.5
82-107		SE¼SW¼NW¼SE¼	2.5
82-108	Nev-032037	NE¼SE¼NW¼SE¼	2.5
82-109		NW¼SE¼NW¼SE¼	2.5
82-110		SW¼SE¼NW¼SE¼	2.5
82-111		SE¼SE¼NW¼SE¼	2.5
82-112	Nev-030608	NE¼NE¼SW¼SE¼	2.5
82-113		NW¼NE¼SW¼SE¼	2.5
82-114		SW¼NE¼SW¼SE¼	2.5
82-115		SE¼NE¼SW¼SE¼	2.5
82-116		NE¼NW¼SW¼SE¼	2.5
82-117		NW¼NW¼SW¼SE¼	2.5
82-125	Nev-030265	NW¼SE¼SW¼SE¼	2.5
82-126	Nev-024832	SW¼SE¼SW¼SE¼	2.5
82-128	Nev-024023	NW¼NW¼SE¼SE¼	2.5
82-129		SW¼NW¼SE¼SE¼	2.5
		Section 28	
82-132	Nev-028671	E½SW¼NE¼SE¼	5.0
82-133	Nev-027841	W½SE¼NE¼SE¼	5.0
82-134		E½SE¼NE¼SE¼	5.0
		Total acres 107.5	

The following described parcels, which were originally identified in the July 2, 1981 Notice to be offered on a competitive basis to the general public, are hereby identified to be offered on a non-competitive basis to small tract applicants in lieu of the above described tracts that are in conflict with the proposed expressway. Sale will be at not less than fair market value in accordance with Pub. L. 96–586 and Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1713).

Parcel No.	Legal description	Acres
	T.20 S., R. 60 E., MDM Section 4	
81-01	NE¼NE¼SW¼SW¼	2.5
81-02	NW¼NW¼SW¼SW¼	2.5
81-03	SE¼NW¼SW¼SW¼	2.5
81-04	SE¼SW¼SW¼SW¼	2.5
81-05	NW¼NE¼SE¼SW¼	2.5
	Section 9	
81-07	N½NW¼NE¼NE¼	5.0
81-08	SW¼NE¼NE¼NE¼; SE¼NW¼NE¼NE¼	5.0
81-09	E½SE¼NE¼NE¼	5.0
81-10	E½SW¼NE¼NE¼	5.0
81-11	SE¼SE¼NW¼NE¼	2.5
81-12	SW¼NE¼NW¼NE¼	2.5
81-13	E½NW¼NW¼NE¼	5.0
81-14	NE¼NE¼NE¼NW¼	2.5
81-16	SW¼SE¼NE¼NW¼	2.5
81-17	N½SW¼NE¼NW¼	5.0
81-18	SW¼NW¼NE¼NW¼; SE¼NE¼NW¼NW¼	5.0
81-20	NW¼SE¼NE¼NE¼	2.5
81-23	NW¼NE¼SW¼NW¼	2.5
81-29	SW¼NE¼SE¼NW¼	2.5
81-31	NW¼NW¼SW¼NE¼	2.5
81-32	SW¼NE¼SW¼NE¼	2.5
81-34	NE¼SE¼SW¼NE¼	2.5
81-44	NE¼NE¼NW¼SW¼	2.5
81-46	NW¼SE¼NW¼SW¼	2.5
81-48	SW¼SW¼NW¼SW¼	2.5
81-50	NW¼NW¼SE¼SW¼	2.5
81-52	NW¼SE¼SW¼SW¼	2.5
81-54	SE¼SE¼SW¼SW¼	2.5
81-56	SW¼SE¼SE¼SW¼	2.5
81-62	NW¼SW¼SE¼SE¼	2.5
81-63	SE¼SE¼SW¼SE¼	2.5
	Section 10	
81-64	NE¼NE¼NW¼NW¼	2.5
81-66	SW¼NW¼NW¼NW¼	2.5
81-69	SE¼NE¼SW¼NW¼	2.5
81-72	NE¼NE¼NW¼SW¼	2.5
81-73	SW¼NW¼NW¼SW¼	2.5
	Total acres 107.5	

The above parcels not purchased by small tract applicants will be offered to the general public on a competitive bidding basis at a later date.

The following described parcels, which were originally identified in the July 2, 1981 Notice to be offered on a competitive bidding basis to the general public, are hereby eliminated from further consideration for public sale due to conflicts with proposed plans for an expressway:

Parcel No.	Legal description	Acres
	T. 20 S., R. 60 E., MDM Section 28	
81-80	E½NE¼NW¼	20.0
81-81	E½NW¼NE¼NW¼	5.0
81-82	W½W½NE¼NW¼; E½NW¼NW¼; E½W½NW¼NW¼	40.0
	Total acres	65.0

The following described parcels, which were originally identified in the July 2, 1981 Notice to be offered on a competitive bidding basis to the general public, remain identified for sale on a competitive basis pursuant to Pub. L. 96–586, under revised sale procedures at not less than fair market value utilizing an appraisal:

Parcel No.	Legal description	Acres
	T. 20 S., R. 60 E., MDM Section 9	
81-15	SW¼NW¼NE¼; W½SE¼NW¼NE¼; E½SE¼NE¼NW¼	20.0
81-19	NE¼NE¼NW¼NW¼	5.0
81-21	NW¼NW¼NW¼; N½SW¼NW¼NW¼	15.0
81-22	S½SE¼NW¼NW¼	5.0
81-24	W½NW¼SW¼NW¼	5.0
81-25	N½SW¼SW¼NW¼	5.0
81-26	S½NE¼SW¼NW¼; SE¼SW¼NW¼	15.0
81-27	W½NW¼SE¼NW¼	5.0
81-28	SE¼NW¼SE¼NW¼; NE¼SW¼SE¼NW¼	5.0
81-30	NE¼SE¼SE¼NW¼; SE¼NE¼SE¼NW¼	5.0
81-33	N½SW¼SW¼NE¼	5.0
81-35	SE¼NE¼SE¼NE¼; NE¼SE¼SE¼NE¼	5.0
81-36	S½SE¼SE¼NE¼	5.0
81-37	E½NE¼NE¼SE¼; N½NE¼SE¼NE¼SE¼; SW¼NE¼SE¼NE¼SE¼; SW¼NE¼NE¼SE¼; NW¼SE¼NE¼SE¼	11.875
81-39	SE¼SW¼SW¼NE¼; SW¼SE¼SW¼NE¼	5.0
81-40	NE¼NW¼SE¼; W½SE¼NW¼SE¼; E½W½NW¼SE¼	25.0
81-41	SW¼NW¼NW¼SE¼; NW¼SW¼NW¼SE¼	5.0
81-42	NE¼NE¼SW¼; N½SE¼NE¼SW¼	15.0
81-43	S½SW¼SE¼NW¼	5.0
81-45	S½NW¼NE¼SW¼; SE¼NE¼NW¼SW¼; SW¼NE¼SW¼; E½SE¼NW¼SW¼	22.5
81-47	S½NW¼NW¼SW¼; N½SW¼NW¼SW¼	10.0
81-49	NW¼NE¼SW¼SW¼; NE¼NW¼SW¼SW¼	5.0
81-51	S½NW¼SW¼SW¼; SW¼SW¼SW¼	15.0
81-53	SE¼NE¼SW¼SW¼; NE¼SE¼SW¼SW¼; S½NW¼SE¼SW¼; N½SW¼SE¼SW¼	15.0
81-55	NE¼SE¼SW¼; N½SE¼SE¼SW¼; W½NW¼SW¼SE¼; NW¼SW¼SW¼SE¼	22.5
81-57	E½SW¼SW¼SE¼	5.0
81-58	S½NE¼SW¼SE¼; N½SE¼SW¼SE¼	10.0
81-59	NE¼NE¼SW¼SE¼; NW¼NW¼SE¼SE¼	5.0
81-60	SE¼SW¼NE¼SE¼; SW¼SE¼NE¼SE¼	5.0
81-61	S½NE¼SE¼SE¼; SE¼NW¼SE¼SE¼; E½SW¼SE¼SE¼; N½SE¼SE¼SE¼; SW¼SE¼SE¼SE¼; W½SE¼SE¼SE¼; SE¼SE¼SE¼SE¼SE¼	21.875
	Section 10	
81-65	W½NE¼NW¼NW¼; E½NW¼NW¼NW¼	10.0
81-67	S½SW¼NW¼NW¼	5.0
81-68	S½SE¼NW¼NW¼; N½NE¼SW¼NW¼	10.0
81-70	SW¼NW¼SW¼NW¼; NW¼SW¼SW¼NW¼	5.0
81-71	SE¼SW¼NW¼	10.0
81-74	NW¼SE¼NW¼SW¼	2.5
	Section 28	
81-75	W½NE¼NE¼NE¼; E½NW¼NE¼NE¼	10.0
81-76	SE¼NE¼NE¼	10.0
81-77	W½SW¼NE¼NE¼	5.0
81-78	E½NW¼NE¼	20.0
81-79	NW¼NW¼NE¼	10.0
81-84	W½SW¼NW¼NW¼	5.0
81-85	W½NW¼SW¼NW¼	5.0
81-86	NE¼SW¼NW¼; NW¼SE¼NW¼	20.0
81-88	E½NE¼SE¼NW¼	5.0
81-89	SE¼SE¼NW¼	10.0
81-90	W½SW¼SE¼NW¼	5.0
81-91	SW¼SW¼NW¼; W½SE¼SW¼NW¼	15.0
	Section 3	
81-99	Lots 25, 46–49, 57–59	43.11
81-100	Lot 78	5.34
81-101	Lot 114	5.35
	Total acres	520.05

The competitive parcels will be offered at an auction utilizing oral bidding procedures. The highest oral bid will establish the purchaser. Adjoining land owners have no preference rights. Specific information regarding the time and the site of the auction, and bidding procedures will be published in a sale brochure and made available to the public at least three weeks prior to the sale. Any parcels not sold at the auction will be available at a later date for purchase "over-the-counter" on a first-come first-served basis at the Bureau of Land Management's Las Vegas District Office, 4765 Vegas Drive, Las Vegas, Nevada.

All lands offered in this notice are situated in the northwest quadrant of the Las Vegas Valley, having potential for urban-suburban development. Transfer of the land from Federal ownership will facilitate local land use planning and enhance its compatibility with adjoining private land uses. Prior to issuance of patent, the purchaser will

also have an opportunity to buy the locatable and saleable mineral interests in accordance with 43 CFR Part 2720.

Parcel numbers for those parcels offered for sale coincide with the last digit(s) of Bureau assigned serial numbers N–33501 through N–33601; Parcel 81–01 is N–33501, Parcel 81–101 is N–33601. Thirteen numbers are missing from the sequence. This resulted from the reconfiguration of various parcels, removal of three parcels and disposition of land in the original sale.

General terms and conditions of the sale are:

1. The land will be sold subject to all valid existing rights such as power transmission and telephone line easements and federally issued oil and gas leases.

2. The land will be sold subject to reservations for streets, roads and public utilities, both existing and proposed, in accordance with Clark County plans.

3. All land that is sold will be subject to applicable Clark County ordinances.

Purchasers will be required to pay a non-refundable deposit of at least twenty percent of the purchase price at the time of the sale. The remainder shall be due within thirty days of the sale. Personal or certified checks, money orders, and cash will be acceptable forms of payment. Only U.S. citizens and legally charted U.S. corporations are eligible to purchase these lands.

For a period of 45 days from the date this notice is published in the **Federal Register**, interested persons may submit comments regarding the sale to the State Director (N–943), P.O. Box 12000, Reno, NV 89520.

Wm. J. Malencik,

Chief, Division of Operations.

[FR Doc. 82–26923 Filed 9–29–82; 8:45 am]

BILLING CODE 4310–84–M

Wyoming; Realty Action Modified, Competitive Sale of Public Lands in Johnson County

September 16, 1982

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at no less than fair market value:

Sixth Principal Meridian

T. 51 N., R. 82 W.,
Section 30, lots 8 and 9.
The area described contains 48.66 acres.
The appraised value is $34,000.00.

The public land sale will be held on Friday, December 3, 1982, at the Buffalo Resource Area Office of the Bureau of Land Management, 300 Spruce Street, Buffalo, Wyoming. Registration of bidders will begin at 10:30 a.m. and the sale will commence at 11:00 a.m.

The land will be offered for sale by sealed and oral bid utilizing modified bidding procedures. John D. Hall, the owner of the surrounding private land, is the proposed designated bidder and will be offered the right to meet the high bid. Refusal or failure to meet the highest bid will constitute a waiver of such bidding provisions.

The land is an isolated tract with no legal access, is completely surrounded by private land owned by John D. Hall, and is within one-half mile of his ranch headquarters. Use of the lands is presently being authorized to John D. Hall by a grazing lease, agricultural lease, and a road right-of-way; he and his family have been historical users of the land.

The land has homesite/subdivision potential because of its topography, close proximity to Buffalo, Wyoming (approximately five miles), and proximity to county road (although approximately ½-mile of privately owned land must be crossed).

The land is difficult and uneconomic to manage as part of the public land system. The proposed sale is consistent with the Bureau's Planning System.

Sale of the land shall be subject to:

1. reservation of (right-of-way for ditches and canals to the United States pursuant to 43 U.S.C. 945;

2. reservation of mineral deposits in the land so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Department of Interior may prescribe:

3. all valid existing rights and reservations of record.

Detailed information concerning the sale, including the planning documents, official correspondence with respect to case history, mineral report, and report, land environmental assessment is available for review at the Bureau of Land Management, Buffalo Resource Area, 300 Spruce Street, P.O. Box 670, Buffalo, Wyoming 82834.

Bidding information and instructions

Bidder Qualifications: The Federal Land Policy and Management Act requires that the bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any state or the U.S. A state, state instrumentality, or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of conveying and holding lands or interests therein under the laws of the State of Wyoming.

Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value of $34,000.00 and bids must include all of the land identified in this sale notice.

Method of Bidding: Sealed bids must be either mailed or delivered to the Bureau of Land Management, Buffalo Resource Area Office, 300 Spruce Street, P.O. Box 670, Buffalo, Wyoming 82834. Bids delivered or sent by mail will be considered only if received at the Buffalo Resource Area Office, prior to 4:00 p.m. the day before the sale. Each sealed bid must be in a sealed envelope and must be accompanied by a certified check, postal money order, bank draft or cashier's check, made payable to the Bureau of Land Management, for not less than one-fifth of the amount bid. The sealed bid envelope must be marked in the lower left-hand corner of the front of the envelope with the words "Public Land Sale W–80910, December 3, 1982—sealed bid". The highest sealed bid on the parcel will determine the base of the oral bidding conducted the day of the sale. If two or more envelopes are received containing the highest valid bids of the same amount, a determination of which is to be considered, the highest bid will be by drawing. The highest qualifying sealed bid will be publicly declared on the day of the sale and oral bids will then be invited. A paticipant in the sale must submit a sealed bid to be eligible to take part in the oral bidding.

Modified Bidding: After oral bids, if any are received, the highest apparent bidder will be declared. If the highest apparent bid is not held by John D. Hall, he will be allowed 30 days from the date of the sale to match the high bid and, if he does so, will be declared successful bidder. If he does not meet the high bid within the time frames given above, the highest apparent bidder will be designated successful bidder.

Final Details: The successful bidder shall submit the remainder of the full bid price within 30 days from the date of the sale. Failure to submit the full bid price within 30 days shall result in cancellation of the sale of the parcel and the deposit shall be forfeited and disposed of as other receipts of sale. All bids will be either returned, accepted, or rejected in writing within 60 days from the sale date.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management, Casper District Office, 951

Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the district manager who may vacate or modify this realty action and issue a final determination. In absence of any action by the district manager, this realty action will become a final determination.

Paul W. Arrasmith,

District Manager.

[FR Doc. 82-26922 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

[C-2495]

Colorado; Correction of Notice of Proposed Withdrawal and Reservation of Lands

September 23, 1982.

In FR Doc. 67-14665, appearing on page 18116 in the issue of Tuesday, December 19, 1967, please make the following correction:

(1) Under T. 1 S., R. 77 W., sec. 35, "E½SE¼", should have read "E½SW¼".

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-26918 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

[U-42887]

Utah; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of Interior, propose to continue in its entirety, for a 20 year period, the existing withdrawal described below, pursuant to Sec. 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751) (43 U.S.C. 1714). The withdrawal was established by Public Land Order No. 852, of July 1, 1952, for an Automobile Racing and Testing Grounds.

Salt Lake Meridian, Utah

T. 2 N., R. 16 W.,
Sec. 31, all.
T. 1 N., R. 17 W.,
Sec. 19, all;
Sec. 20, all;
Sec. 21, all;
Sec. 22, SW¼;
Sec. 27, W½E½, W½;
Sec. 28, all;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 33, all;
Sec. 34, W½E½, W½.
T. 1 N., R. 18 W.,
Sec. 24, SE¼SE¼;
Sec. 25, E½.
T. 1 S., R. 17 W.,
Sec. 4, lots 2, 3, 4, S½NW¼, W½SW¼;
Sec. 5, all;
Sec. 6, all;
Sec. 7, N½NE¼;
Sec. 8, N½NW¼.

Aggregating 8,927.41 acres.

On or before December 30, 1982, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is affored in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned before December 30, 1982. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual section 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the lands are dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the lands is provided for, and an agreement is reached on the concurrent management of the lands and their resources. He will also prepare a report for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination of the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, University Club Building, 136 East, South Temple, Salt Lake City, Utah 84111.

Dated: September 24, 1982.

Darrell Bares,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-26917 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 12]

Oregon; Partial Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on January 27, 1967 (32 FR 1001), approximately 89,708 acres of public lands under the jurisdiction of the Bureau of Land Management were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411-18) and the regulations in 43 CFR Part 2460. The lands are located in Deschutes and Lake Counties, Oregon.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is terminated except for the lands described in paragraph 3, upon publication of this notice in the **Federal Register.**

3. The following described lands remain classified for multiple use management and continue to be segregated from location for obsidian and chalcedony minerals under the general mining laws:

Willamette Meridian

T. 23 S., R. 22 E.,
Sec. 13;
Sec. 14, N½, SW¼,N½SE¼, and SE¼SE¼;
Sec. 15;
Sec. 17, E½, SE¼NW¼, and SW¼;
Sec. 18, Lots 1, 2, W½NE¼, SE¼NE¼, E½W½, and SE¼;
Sec. 19, E½ and E½SW¼;
Secs. 20 to 22, inclusive;
Sec. 23, E½NE¼, SW¼NE¼, W½, and SE¼;
Sec. 24, N½, NE¼SW¼, S½SW¼, and SE¼;
Secs. 25 to 31, inclusive;
Sec. 32, N½, SW¼, and NW¼SE¼;
Sec. 33;
Sec. 34, N½NE¼, SW¼NE¼, W½, and W½SE¼;
Sec. 35, E½, and N½NW¼.
T. 24 S., R. 22 E.,
Secs. 1 and 12.
T. 23 S., R. 23 E.,
Sec. 17;
Sec. 18, Lots 1, 2, 3, 4, NE¼, E½W½, N½SE¼, and SW¼SE¼;
Sec. 19, 20, and 28 to 32, inclusive.
T. 24 S., 23 E.,
Secs. 5 to 8, inclusive.

The area described aggregates 22,548.43 acres in Lake County, Oregon.

4. At 9:30 a.m., on November 8, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands involved will be open to operation of the public land laws generally. All valid applications received at or prior to 9:30 a.m., on November 8, 1982, shall be considered as simultaneously filed at

that time. Those received thereafter shall be considered in the order of filing.

5. At 9:30 a.m., on November 8, 1982, the following described lands will be open to location for obsidian and chalcedony minerals under the United States mining laws:

Willamette Meridian

T. 23 S., R. 22 E.,
Secs. 1 to 6, inclusive;
Sec. 7, Lots 1, 2, 3, 4, NE¼, and E½W½;
Secs. 8 to 12, inclusive.
T. 23 S., R. 23 E.,
Secs. 1 to 13, inclusive;
Sec. 14, N½, N½S½, SE¼SW¼, and S½SE¼;
Sec. 15.

The area described aggregates 15,337.27 acres in Lake County, Oregon.

6. Subject to the provisions of existing withdrawals, and except as provided in paragraphs 3 and 5, the lands have been and continue to be open to operation of the mining laws and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: September 24, 1982.

Phillip C. Hamilton,

Acting State Director.

[FR Doc. 82-26990 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Officer of Management and Budget reviewing official, Mr. Richard Otis, at 202-393-7340.

Title: 30 CFR 780 Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan.

Bureau Form Number: None.

Frequency: Once every five years.

Description of Respondents: Coal Mine Operators.

Annual Responses: 56,671.

Annual Burden Hours: 999,722.

Bureau clearance officer: Darlene Grose, 202-343-5447.

Dated: August 30, 1982.

Ann L. Chapman,

Acting Assistant Director, Management and Budget.

[FR Doc. 82-26991 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Proposals for Collection of Information Under the Paperwork Reduction Act

The following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) are being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Office, Carroll Stearns (202) 275-7077. Comments regarding these information collections should be addressed to Carroll Stearns, Interstate Commerce Commission, Room 6217, 12th and Constitution, NW., Washington, D.C. 20423 and to Donald Arbuckle, Office of Management and Budget, Room 3228 NEOB, Washington, D.C. 20503, (202) 395-7313.

Type of Clearance: New
Bureau/Office: Office of Proceedings
Title of Form: Special Application for Authority to Sell Securities Without Competitive Bidding
OMB Form No.: None
Agency Form No.: OP-F-210
Frequency: On Occasion
Respondents: Privately Owned Rail Carriers
No. of Respondents: 15
Total Burden Hours: 225
Type of Clearance: New
Bureau/Office: Office of Proceedings
Title of Form: Certificate of Notification Under 49 U.S.C. 11301(c)(1) Issuance of Short Term Notes
OMB Form No.: None
Agency Form No.: OP-F-230
Frequency: On Occasion
Respondent: Privately Owned Regulated Carriers
No. of Respondents: 95
Total Burden Hours: 285
Type of Clearance: New
Bureau/Office: Office of Proceedings
Title of Form: Issuance of Securities or Assumption of Obligations
OMB Form No.: None
Agency Form No.: OP-F-240
Frequency: On Occasion
Respondents: Privately Owned Regulated Carriers
No. of Respondents: 400
Total Burden Hours: 2,000

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26894 Filed 9-29-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 82-22929 appearing on page 36722 in the issue of Monday, August 23, 1982, make the following correction:

On page 36726, in the paragraph for MC 162574 (Sub-4-2TA), International Investments Corp., d.b.a. Universal Trucking, five lines from the top of the second column, "From points in * * *" should have read "Lumber and lumber products from points in * * *".

BILLING CODE 1505-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

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.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before

the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–FC–79950. By decision of 8–5–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Trans West Systems, Inc., of Pocatello, ID, of the operating rights issued to Cotant Truck Lines, Inc., of Chubbuck, ID, in Certificate No. MC–150770 (Sub-no. 2), authorizing the transportation of (1) automotive parts and accessories, between points in ID, on the one hand, and, on the other, points in AZ, CA, NV, UT, OR, and WA, and (2) such commodities as are dealt in by grocery stores and food business houses, between points in ID and UT, on the one hand, and, on the other, points in CA, OR, WA, ID, and UT; and in Permit No. MC–150770 (Sub-No. 1F), authorizing the transportation of general commodities (except classes A and B explosives, and household goods as defined by the Commission) between points in the U.S., under continuing contract(s) with Kraft, Inc., of Chicago, IL. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. TA has not been sought.

Notes.—Transferee holds Certificate Nos. MC–160403 (Sub-No. 1) and MC–160403 (Sub-No. 2).

MC–FC–79954. By decision of September 21, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 aproved the transfer to ATLANTIC DISTRIBUTION SYSTEMS, INC., of Atlanta, GA, of Certificates Nos. MC–134030 (Sub-No. 1) and MC–134030 (Sub-No. 2F), issued to ATLANTIC MOVING & STORAGE, INC., of Atlanta, GA, authorizing in Sub-No. 1 the transportation of used household goods between points in Cobb, Clayton, DeKalb, Fulton, and Gwinnett Counties, GA, on the one hand, and, on the other, points in GA, restricted (1) to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and (2) to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic; and in Sub-No. 2F the transportation of household goods, as defined by the Commission, between points in GA, FL, and TX on the one hand, and, on the other, points in GA, FL, TX, LA, NC, SC, AL, MS, KY, TN, AR, and OK. Representative: Robert J. Gallagher, 1000 Connecticut Avenue N.W., Suite 1200, Washington, DC 20036.

Notes.—Transfeer holds no authority From this Commission, TA has not been sought.

MC–FC–80037. By decision of September 15, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR. 1132, Review Board Number 3 approved the transfer to WATSON & BROWN ENTERPRISES, INC., d.b.a. WATSON TRUCKING, of San Diego CA, of Permit No. MC–148875 Sub 2F, issued to KELLY H. WATSON ENTERPRISES, INC., d.b.a. WATSON TRUCKING of San Diego, CA, games and toys, between points in the U.S., under contract with Gremlin Industries, of San Diego, CA. Representative: Brock Watson, 8477 Aero Drive, San Diego, CA 92123.

MC–FC–80025. By decision of September 16, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to James P. Anderson Trucking, Inc., of Hawarden, IA of Certificate No. MC–149411 (Sub-No. 1) issued to Heuertz Trucking, Inc., of LeMars, IA authorizing over irregular routes, transporting ores and minerals, between points in IA, NE, MN, and SD. Representative: D. Douglas Titus, 340 Insurance Exchange Bldg., Sioux City, IA 51101.

MC–FC–80033. By decision of September 14, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to D & R TRUCKING, INC., of Casper, WY, of Certificate No. MC–145565 (Sub-No. 4) X issued to C.D. BRESHEARS, doing business as J & B SERVICES, of Casper, WY, authorizing: *Mercer* Commodities, between points in Natrona County, WY, on the one hand, and, on the other, points in ND, UT, CO, MT, and ID. Representative: Herbert F. McCulla, P.O. Box 471, Casper, WY 82601.

MC–FC–80043. By decision of September 14, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to GEORGE A. GRATHWOHL of Fairfield, OH of Certificate No. MC–47710 issued to G.J.R., Inc., of Cincinnati, OH, authorizing *coal and coke and such commodities as are transported in dump trucks,* between Cincinnati, Ohio, on the one hand, and, on the other, Aurora, IN, points in that part of Ohio within 40 miles of Cincinnati, and points in those parts of Boone, Kenton, and Campbell Counties, KY, within 10 miles of the Ohio River, from Cincinnati, Ohio, to points in Wayne, Henry, Union, Fayette, Rush, Franklin, Decatur, Dearborn (except Aurora), Ohio, Ripley, Switzerland, and Jefferson Counties, IN. Representative: Lewis S. Witherspoon, 2455 North Star Road, Columbus, Ohio 43221.

Note.—Transferee is not a carrier. TA lease is not sought.

MC–FC–80044. By a decision of September 16, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Gains's Express, Inc., of Holden, MA of Certificates No. MC–55665 and MC–55665 (Sub-No. 1) issued, to Gains's Express, Inc., of Jefferson, MA, authorizing general commodities, with exceptions, over regular and irregular routes, between specified points in MA. Transferee's representative: Carl Emmett Baylis, 370 Main Street, Worcester, MA 01608. Transferor's representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181.

MC–FC–80053, by decision of September 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3, approved the transfer to JAMES N. ALLEN, INC., of New Bethlehem, PA, of Certificate No. MC–148140 issued March 9, 1981, to JAMES N. ALLEN, of Distant PA, authorizing the transportation of (1) *coal,* in bulk, in dump vehicles, from points in Armstrong, Butler, Clarion, Clearfield, Elk, Forest, Indiana, Jefferson, and Venango Counties, PA, to points in CT, DE, MD, MI, NJ, NY, OH, VA, and WV, (2) *salt,* in bulk, in dump vehicles, from Watkins Glen, NY, and Whitemarsh, MD, to points in PA on and west of US Hwy 11, and (3) *calcium chloride,* in bulk in dump vehicles, from Ludington and Midland, MI, and Solvay, NY, to points in PA. Representative: James N. Allen, President, 308 Leasure Way, Bethlehem, PA 16242. Transferee is a carrier. T/A not sought.

MC–FC–80054. By decision of September 20, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3

approved the transfer to David C. Weston Farms d/b/a Weston Trucking, Inc., of Tremonton, UT, of Certificate No. MC–157575 (Sub-No. 1) issued April 19, 1982, and Permit No. MC–157575 issued February 8, 1982, to Sandarosa Trucking (a corporation) of Logan, UT, authorizing transportation (1) as a motor common carrier, transporting *metal products*, between points in Box Elder County, UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, WA and WY, and (2) as a motor *contract* carrier transporting *building and construction materials* and *metal products* between points in the United States under continuing contract(s) with Imperial Wholesale Supply, Inc., of Salt Lake City, UT, and Tom Nichols Construction Company, Inc., of Burley, ID, respectively. Representative: David C. Weston, 267 West Main, Tremonton, UT 84337.

MC–FC–80056 by decision of September 20, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Ray Evarts, doing business as of EXPRESSLY LTL of Certificate No. MC–155691 issued July 6, 1982 to Adrian Darkow; doing business as Expressly LTL authorizing the transportation over irregular routes of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Anchorage, AK, on the one hand, and, on the other, points in the Third Judicial District of AK. Applicants representative: J. Glen Cassity, 211 West Cook Avenue, Anchorage, AK 99501.

MC–FC–80059 by decision of September 20, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 3 approved the transfer to G&H MOTOR FREIGHT LINES, INC, OF GREENFIELD, IA of Certificate No. MC–48603 (Sub-Nos. 1, 2 and 3) issued March 10, January 30 and July 17, 1981, respectively to JERRY SIMPSON d/b/a THORTON TRANSFER, of Griswold, IA authorizing the transportation of (1) *general commodities* with exception over regular and irregular routes between Omaha, NE and named points in Western Iowa and (2) such commodities having a prior or subsequent movement by rail between points in IA, NE, and MO. Transferee holds authority in MC–110581. Applicants representative: James F. Cosby, James F. Cosby & Associates, 7363 Pacific St., Suite 210B, Omaha, NE 68114. No T/A has been filed.

[FR Doc. 82–26892 Filed 9–29–82; 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 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 about the following to Team 2, (202) 275–7030.

Volume No. OP 2–236

Decided: September 23, 1982.

By the Commission. Review Board No. 1, Members Parker, Chandler, and Fortier. Member Chandler not participating.

MC 1222 (Sub-57), filed September 20, 1982. Applicant: THE REINHARDT TRANSFER COMPANY, 1410 10th St., Portsmouth, OH 45662. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602, 502–223–8244. Transporting *chemicals and related products, rubber and plastic products, and metal products,* between points in Will County, IL, Mason County, MI, and Hancock, Licking, and Lawrence Counties, OH, on the one hand, and, on the other, points in DE, MD, NJ, and DC.

Note.—Applicant may tack this authority with its existing regular route authority.

MC 67403 (Sub-15), filed July 22, 1982 (Correction), previously published in the **Federal Register** issue of August 10, 1982, and republished, as corrected, this issue. Applicant: BROES TRUCKING COMPANY, INC., Interstate Highway 295 & Dominick Lane, Paulsboro, NJ 08066. Representative: Robert F. Blomquist, 499 Cooper Landing Rd., Cherry Hill, NJ 08002, 609–667–6000. Transporting (1) *metal products,* (2) *commodities which because of their size or weight require the use of special handling or equipment,* (3) *machinery and parts,* (4) *lumber and wood products,* and (5) *building materials,* between points in NY, NJ, PA, CT, MA, RI, DE, VA, MD, WV, OH, VT, NH, NC, ME, and DC.

Note.—This republication is to correct the commodity description.

MC 109593 (Sub-22), filed September 20, 1982. Applicant: H. R. HILL, INC., P.O. Box 875, 2007 West Shawnee, Muskogee, OK 74401. Representative: Jack R. Anderson, Suite 305—Reunion Center, 9 East 4th St., Tulsa, OK 74103, 918–583–9000. 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 Midland Glass Co., Inc., of Cliffwood, NJ.

MC 148153 (Sub-5), filed September 20, 1982. Applicant: WALBON & COMPANY, INC., 3242 Highway 8, Minneapolis, MN 55418. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, 612–927–8855. Transporting *alcoholic beverages,* between Savannah, GA, Charleston, SC, and Mobile, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163163 (Sub-1), filed September 20, 1982. Applicant: EAGLE BUS, INC., 805 Avenue "C", Bayonne, NJ 07002. Representative: Edward F. Bowes, 7 Becker Farm Rd, P.O. Box "Y", Roseland, NJ 07068, 201–992–2200. Transporting *passengers and their baggage,* in special and charter operations, between points in the U.S. (except AK and HI), under continuing contract(s) with Eagle Tours, Inc., of Bayonne, NJ.

MC 163912, filed September 20, 1982. Applicant: RECORD TRANSPORT, INC., 2065 E. Ross St., Vernon, CA 90058. Representative: William W. Johnston (same address as applicant), 213–231–9141. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA.

Volume No. OP2–238

Decided: September 24, 1982.

By the Commision, Review Board No. 1, Members Parker, Chandler and Fortier. Member Chandler not participating.

MC 87113 (Sub-26), filed September 13, 1982. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833–8884. Transporting *household goods,* between points in the U.S., under continuing contract(s) with Pabst Brewing Company, of Milwaukee, WI.

MC 139083 (Sub-16), filed September 7, 1982. Applicant: BUILDING SYSTEMS TRANSPORTATION, INC., P.O. Box 142, Washington Court House, OH 43160. Representative: Marshall Kragen, 1919 Pennsylvania Ave, NW., Suite 300, Washington, DC 20006 (202)466–3778. Transporting *(1) rubber and plastic products, (2) pulp, paper, and paper products, (3) lumber and wood products, (4) metal and metal products, and (5) clay, concrete, glass, or stone products,* between points in the U.S. (except AK and HI).

MC 162023 (Sub-2), filed August 20, 1982. Applicant: FREDERICK TRANSPORT (U.S.), INC., 4000 49th Ave., Moline, IL 61625. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202)783–3525. Transporting *paper and printed matter,* between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must file an application, under 49 U.S.C. § 11343(a), to the Secretary's office. In order to expedite issuance of any authority, please submit proof of filing of the application for common control to Team 2, Room 2379.

Please direct status inquiries about the following the Team 4 (202) 275–7669.

Volume No. OP4–343

Decided: September 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC 45736 (Sub-66), filed September 13, 1982. Applicant: GUIGNARD FREIGHT LINES, INC., P.O. Box 26067, Charlotte, NC 28213. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St., NW., Washington, DC 20006 (202) 833–1170. Transporting *general commodities* (except classes A and B explosives and household goods), (1) between points in IL, IN, MI, MS, and (2) between points in IL, IN, MI, and MS, on the one hand, and, on the other, points in AL, DE, FL, GA, KY, MD, NC, NJ, OH, PA, SC, TN, VA, WV, and DC.

MC 136746 (Sub-5), filed September 13, 1982. Applicant: CONSOLIDATED PARCEL SERVICE, INC., 2058 Concourse Drive, St. Louis, MO 63141. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102 (314) 421–0845. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL and MO, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, MI, MO, NE, OH, OK, and TN.

MC 143956 (Sub-34), filed September 10, 1982. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, (same address as applicant) (803) 549–2026. 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 Mondi, Inc., of Cincinnati, OH.

MC 145726 (Sub-15), filed September 13, 1982. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 428 S. Lawrence St., Montgomery, AL 36104, (205) 262–2756. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in the U.S. (except AK and HI).

MC 150277 (Sub-2), filed September 15, 1982. Applicant: HOWARD McLAIN TRANSPORTATION, INC., 139 S. Bunn Rd., Hillsdale, MI 49242. Representative: James R. Neal, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting (1) *metal and metal products,* (2) *chemicals and chemical products,* and (3) *food and related products,* between those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 150756 (Sub-7), filed September 13, 1982. Applicant: GUTHMILLER TRUCKING, INC., P.O. Box 206 (30700 Dyer St.), Union City, CA 94587. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *containers, container closures, filters and plastic products,* between points in AZ, CA, CO, ID, KS, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY.

MC 154047 (Sub-1), filed September 15, 1982. Applicant: C & S EXPRESS, INC., 4907 St. Rt. 39, Crestline, OH 44827. Representative: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160767 (Sub-6), filed September 8, 1982. Applicant: LADD TRANSPORTATION, INC., #1 Plaza Ctr., Box HP 3, High Point, NC 27261. Representative: Beverly C. Davis, (same address as applicant) (919) 889–0333. 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 Simmons USA, of Atlanta, GA.

MC 163677, filed September 8, 1982. Applicant: HENRY S. STEFANIK, d.b.a. NORTHSIDE TRUCKING CO., Morgan Ave., Westfield, MA 01085. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. 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 Digital Equipment Corporation, of Maynard, MA.

MC 163727, filed September 3, 1982. Applicant: TED BAILEY AND KAREN BAILEY, d.b.a. BAILEY'S BUS SERVICE,

2650 N. Nine Mound Rd., Verona, WI 53593. Representative: Patrick H. Smyth, 105 W. Madison St., Suite 1008, Chicago, IL 60602, (312) 263–2397. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, beginning and ending at points in Dane, Sauk, Iowa, Green, Rock, Jefferson, and Richland Counties, WI, and extending to points in the U.S. (except HI).

MC 163806, filed September 10, 1982. Applicant: GREAT COASTAL CARRIERS, INC., P.O Box 699, Laurel, DE 19956. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., NW, Washington, DC 20005, (202) 296–5188. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 163816, filed September 13, 1982. Applicant: AMERICAN INTERNATIONAL TRANSPORT, INC., 600 Absecon Blvd., Atlantic City, NJ 08401. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Philadelphia, PA 19107, (215) 564–3880. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, beginning and ending at points in NJ, and extending to points in the U.S. (except HI).

MC 163847, filed September 13, 1982. Applicant: BOOMERANG EXPRESS, INC., P.O. Box 188, Colfax, NC 27235. Representative: Terrell G. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Fulton and Montgomery Counties, NY, Washington County, PA, Rockingham County, NC, Orange County, CA, and points in NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) (a) *lumber and wood products,* and (b) *pulp, paper and related products,* between points in Guilford and Davidson Counties, NC, on the one hand, and, on the other, points in TX, and those in the U.S., in and east of MN, IA, MO, AR, and LA, (3) *rubber and plastic products,* between points in Randolph County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (4) *furniture and fixtures,* between points in Guilford County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Please direct status inquiries about the following to teams (202) 275–7289.

Volume No. OP5–198

Decided: September 21, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 41098 (Sub-86), filed September 13, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K Street N.W., Washington, DC 20006, (202) 833–8884. Transporting *general commodities* (except commodities in bulk, household goods and classes A and B explosives) between points in the U.S., under continuing contract(s) with Singer Career Systems of Rochester, NY.

MC 97398 (Sub-2), filed September 13, 1982. Applicant: BEGLEY TRUCKING, INC., 4550 Richmond St., Philadelphia, PA 19137. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966, (215) 357–7220. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Betz Laboratories, Inc. of Trevose, PA, and its subsidiaries, Betz Paper Chemicals, Inc., Betz Entec, Inc., and Betz Process Chemicals, Inc.

MC 109448 (Sub-45), filed September 13, 1982. Applicant: PARKER TRANSFER COMPANY, 1539 Lowell St., P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215, (614) 228–1541. Transporting (1) *such commodities* as are dealt in or used by manufacturers and distributors of Heating and air conditioning units, between points in Effinghan County, IL, Frederick County, MD, and Middlesex County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI, and (2) *transportation equipment,* between points in Erie County, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 130669 (Sub-2), filed September 15, 1982. Applicant: Donald J. Sweeney, d.b.a. D.J.S. ENTERPRISES, INC., R.F.D. #2, New Road, Goffstown, NH 03045. Representative: Donald J. Sweeney, 155 Baker St., Manchester, NH 03103, (603) 669–0728. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in ME, NH, MA, RI, VT, and CT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146888 (Sub-11), filed September 13, 1982. Applicant: GLASS CONTAINER TRANSPORT, INC., Route 1, Box 271, Ridgeway, SC 29130. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345, (404) 321–1765. 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).

MC 151809 (Sub-2), filed September 10, 1982. Applicant: J. M. MARC TRANSPORTATION, INC., 7 Ladik St., Piermont, NY 10968. Representative: Bruce J. Robbins, 18 East 48th St., New York, NY 10017, (212) 755–9400. Transporting *pulp, paper, and related products,* between points in the U.S. (except AK and HI).

Note.—This application is a conversion from contract to common carrier authority.

MC 152599 (Sub-2), filed September 15, 1982. Applicant: SOUTHERN CARRIERS, INC., P.O. Box 631, Galena Park, TX 77547. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives), between Galveston and Houston, TX, and points in Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in AR, CO, LA, KS, MO, and NM.

MC 162148 (Sub-1), filed September 14, 1982. Applicant: YOUR MAN TOURS, INC., 8831 Aviation Blvd., Inglewood, CA 90301. Representative: Joseph J. Weisenfeld, Suite 1850, One Biscayne Tower, Miami, FL 33131, (305) 374–5600. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Los Angeles, Orange, Santa Barbara, Ventura, San Bernardino, Riverside and San Diego Counties, CA, and extending to points in CO, UT, NV, and AZ.

MC 162378, filed September 13, 1982. Applicant: J. W. LINDSEY, d.b.a. J'S PIGGY BACK SERVICE, Fort Worth, TX 76101. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, 817–332–4718. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Tarrant and Dallas Counties, TX, on the one hand, and, on the other, points in Ellis, Denton, Johnson, Hood, Parker, Palo Pinto, Jack, Erath, Wise, Clay, Wichita, Montague, Cooke, Grayson, Fannin, Lamar, Hopkins, Hunt, Collin, Young, Stephens, Kaufman, Van Zandt, Rains, Wood, Smith, Cherokee, Henderson, Navarro, Eastland, Somervell, Comanche, Bosque, Hill, Freestone, Anderson, Limestone, McLennan, Coryell, Hamilton, Archer, Delta, and Rockwall Counties, TX.

MC 163828, filed September 13, 1982. Applicant: SOMERS CORPORATION, 500 W. Wayne St., Celina, OH 45822.

Representative: John M. Summerly (same address as applicant), (419) 586–2351. 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 Aqua Leisure, Inc., of Avon, MA, Aaron Rents, Inc., d/b/a Mactavish Furniture Industries, of Quincy, FL, Totsy Mfg. Co., Inc., of Holyoke, MA, and Columbia Manufacturing Co., of Westfield, MA.

MC 163839, filed September 14, 1982. Applicant: R. W. DELANEY CONSTRUCTION COMPANY, P.O. Box 264, Natchez, MS 39120. Representative: Randy Irvin (same address as applicant), (601) 442–0352. Transporting *Mercer commodities,* between points in AL, AR, FL, GA, LA, MS, OK, TN, and TX.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–26895 Filed 9–29–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP4–342]

Motor Carriers; Republications of Grants of Operating Rights; Authority Prior to Certification; Decision Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall address specifically the issue(s) indicated as the purpose for republication. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

Please direct status inquiries to Team Four at (202) 275–7669.

MC 144757 (Sub-21) (republication), filed May 21, 1982; published in the **Federal Register** issue of June 23, 1982; and republished this issue. Applicant: Dakota Pacific Transport, Inc., 3104 East St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701, Phone: (605) 343–4036. In a decision by the Commission, Review Board Number 1, decided August 31, 1982, and finds that performance by applicant: To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* between Arnaudville, Bryant, Bushville, Cecelia, Coteau Holmes, Gondron, Grant Point, Isle Labbe, Jefferson Island, Loreauville, New Iberia Connection, Oubre, Parks, Patin, Pecaniere, Summerall, Ulysse, Vida, and Walet, LA; Fairfax and Tarkio, MO; Buckley and Enumclaw, WA; Huntley and Ragan, NE; Bender, Breckenridge, Eddy, Erie, Grainville, Hunter, Lamont, Middleton, Peckham, Salt Fork Steen, and Simpson, OK; Weir City, KS; Bartlett, Cartago, Coso, Inyokern, Linnie, Little Lake, Olancha, and Sykes, CA; Corral and Hill City, ID; Cipsco Park, Carbon Lake, Leo Rock and Sand Ridge, IL; Viola, KS; Edgar, Johnson, Keuka, Newby and Oak Crest, FL; Pactolus, Stokes and Whitchard, NC; Ehrhardt, SC; Dundee, Lake Hamilton and Waverly, FL; Greenwood, Loyal and Spokeville, WI; Oakdale, NM; Pencilwood, CA; Berwick, OH; Mt. Hope, NJ; Buchanan, Carlton, Cochranton and Utica, PA; Dimeling, Madera, and Lilly, PA; Lansdown, NJ; Aqueduct, NY; Alexandria, Atlasburg, and St. Clair, PA; Kentmere, DE; La Otto and Huntertown, IN; Picatinny Arsenal, and Hudson, NJ; Whitehall, OH; Levans Mill, and Hepburnville, PA; Randolph, MA; Hughesville and Warren Glen, NJ; Gadsden, IN; Newton Highlands, MA; Toms River, NJ; East View, Elmsford, and Woodbine, NY; Cadiz , Grants, McVittys and Patterson, OH; Bowersville, Little Virginia, and New Providence, PA; Milton, DE; Olivers, San Pierre, Rupel, Tefft, Toto and Wheatfield, IN; Colon, Concord, Haires, Homer, Spring Arbor, Union City and Tekonsha, MI; Merchantville, Pavonia, Branchport, East Longbranch and Ft. Monmouth, NJ; Frankfort, Harbor, Ilion, McConnellsville, Pittsford, Cheming Junction, Elmira Heights and Horseheads, NY; Coleman, Columbiana Mine, Lisbon, De Cliff, Hepburn, Swan Creek, W. Marion, and N. Cherokee, OH; Ironsides, Glasgow and Irvona, PA; Ludlow, MA; Heilwood, PA; Honeoye Falls and Lima, NY; Ft. George G. Meade, MD; Charlottesville, Cumberland, Gem and Greenfield, IN; Garrettsville, Hiram, Leavittsburg, Phalanx, Amsterdam, Ann Mine, Bergholz, Hopedale, Industrial Mine, K & R 1 Mine, Mechanicstown, Piney Fork and Route 43 Washer, OH; Durbin, Aylesworth, Hebron, Kouts, Le Roy, North Judson and Winamac, IN; Bayard and Fairhope, OH; Betzwood, Port Indian, and Spring Mill, PA; Harding, Ontario, and Harrods, OH; Malden, NJ; Greason, Lees Cross Roads, Longsdorf, Newville, and Eclipse, PA; Arlington Siding, Fishkill Plains and Manchester Bridge, NY; Centerville and Germantown, IN; Eldorado, New Paris and Stillwater, OH; Clintondale, East Walden and Modena, NY; Amo, Clayton, Coatesville and Plainfield, IN; Cornwall, PA; Hightstown, NJ; Covington, Hillsboro, Range Road and Waynetown, IN; Mt. Carmel, PA; Birmingham, Ft. Dix and Penberton, NJ; Cunningham, Milton, and Semora, NC; Baskerville, Boydton, Buffalo Jct., Finchley, Mayo, Nelson, Union Level and Virgilina, VA; Carthage and Key West, MN; and Lake Kapowsin, WA, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), will serve a useful public purpose responsive to a public demand or need. Applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. NOTE: To the extent that the certificate granted here authorizes the transportation of Classes A and B explosives, it will expire 5 years fom the date it is issued and 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 sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

Note.—The purpose of this republication is to include "used household goods" in the commodity description.

MC 158286 (Sub-8) (republication), filed April 15, 1982; published in the **Federal Register** issue of May 21, 1982; and republished this issue. Applicant: M. T. TRUCK LINE INC., 4947 W. 173rd St., Country Club Hills, IL 60477. Representative: James C. Hardman, Suite 2108, 33 North La Salle St., Chicago, IL 60602, Phone: (312) 236–5944. In a decision by the Commission, Review Board Number 3, decided August 6, 1982, and finds that performance by applicants a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *general commodities* between Plainfield, Cartersburg, Clayton, Amo, Coatesville, and Fillmore, IN, on the one hand, and, on the other, points in the United States; will serve a useful public purpose responsive to a public demand or need. Applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. Conditions: (1) The certificate to be issued in this proceeding, to the extent it authorizes the transportation of classes A and B explosives, shall be limited in point of time to a period expiring five (5) years

from the date of issuance and (2) Applicant must also certify to the Commission, prior to instituting the operations, that all rail service has actually terminated at the involved points. To accomplish this applicant will be required to send an affidavit marked "Certification of Rail Service Termination" to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

Note.—The purpose of this republication is to include "classes A and B explosives, household goods and commodities in bulk, and service to Alaska and Hawaii".

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26893 Filed 9-29-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-280)]

Western Pacific Railroad Co.; Exemption for Contract Tariff ICC-WP-C-0031 (Canned Goods, Dried Fruit, Beverage Preparations)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due by October 15, 1982.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278

or

Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

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

(49 U.S.C. 10505)

Decided: September 24, 1982.

By the Commission, Review Board Number 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26986 Filed 9-29-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Information for Prospective Lenders; Housing Guaranty Program

I. Introduction

The Housing Guaranty (HG) Program is financed by private capital and is administered by the U.S. Agency for International Development (A.I.D.). The HG Program promotes basic shelter and related services for low-income families throughout the developing world and is an integral component of A.I.D. assistance. The HG Program has been responsible for more than $1.6 billion in loans for housing and community and urban improvement projects in forty developing nations over the past twenty years.

The HG loans are financed by private U.S. lenders and are secured by a full faith and credit U.S. government guaranty. Authority for the guaranty is provided in Sections 221-223 of the Foreign Assistance Act of 1961, as amended (the "Act"). A.I.D. levies an initial charge of one percent (1%) of the amount of the loan, plus a guaranty fee of one-half of one percent (1%) of the unpaid principal balance of the loan per annum for the life of the loan, using this income to cover operating expenses and provide a reserve against claims.

This notice describes the Housing Guaranty Program and explains how private U.S. lenders may participate in the program.

II. Lender Eligibility

A. Definition

The terms "lender" and "investor" are used interchangeably by A.I.D. Section 238(c) of the Act defines "eligible investors" as:

(1) United States citizens;

(2) Corporations, partnerships, or other associations including nonprofit associations, created under the laws of the United States or any state or territory thereof and substantially beneficially owned by United States citizens; and

(3) Foreign corporations, partnerships, or other associations wholly owned by one or more such United States citizens, corporations, partnerships, or other associations: Provided, however, that the eligibility of such foreign corporations shall be determined without regard to any shares, in aggregate less than 5 percent of the total issued and subscribed share capital, held by other than the United States owners.

B. Procedures

It is the responsibility of a lender to determine whether or not it qualifies as an "eligible investor" under the Act. A.I.D. will not prequalify a lender. At A.I.D.'s option, a final determination of eligibility may be made with respect to a specific lender upon the issuance of a guaranty. A lender may request a final determination after submitting evidence of eligibility and stating its intent to hold the guaranteed notes for the life of the loan for investment purposes only.

III. Eligible Projects and Project Preparation

Projects accepted for HG loans are generally developed by foreign governments or institutions working in conjuction with A.I.D.'s overseas missions. To qualify, the projects must be designed to provide housing, infrastructure or improved community services to urban families whose annual income is below the median income levels in the areas where the projects are located. A.I.D.'s goals in development are far broader than planned physical construction alone. HG projects will generally include components in support of these goals, such as technical assistance in the development of improved national housing policies, or for the improvement of the country's financial institutions.

HG projects presently being financed:

Slum upgrading: Includes the provision of water, sewerage, and electricty; and may also include roads, health clinics, schools, and building materials for self-help home improvements;

Sites and services: Includes the necessary clearing or grading of vacant land; division and assignment of lots; construction of common-use facilities;

Core housing: Sites and services program with the addition of a rudimentary housing shell on each lot, to be improved or added to by the owner;

Low-cost housing units: Housing built for sale; and,

Institution building: Refers to the support provided by A.I.D. to local housing institutions through financing primary and secondary mortgage markets.

There are three phases in the development of a specific housing guaranty project: project planning and design; formal A.I.D. project authorization; and project implementation. Lenders do not become involved in these three phases. Once the terms and conditions of a project have been agreed upon, and a project implementation agreement has been signed by the borrowing county and A.I.D., describing the project to be financed and the mutual obligations of the parties, thereafter, the borrower begins the lender selection process.

Contracts customarily required:

(1) Loan Agreement between the borrower and the lender stating the terms of the loan.

(2) Contract of Guaranty between A.I.D. and the lender stating the terms of the U.S. guaranty.

(3) Host Country Guaranty between A.I.D. and the government of the borrowing country providing for an indemnity to A.I.D. in the event of a default, whenever A.I.D. has had to make payments to the lender on behalf of the borrower.

(4) Paying the Transfer Agency Agreement between The Riggs National Bank of Washington, D.C. ("Riggs") and the borrower for servicing of the loan—this is a standard form used in all HG transactions.

(5) Primissory notes issued by the borrower and endorsed with an A.I.D. guaranty legend.

IV. Lender Selection

There are two approved methods for lender selection by a borrower, unless otherwise agreed to by A.I.D.: (1) Competitive negotiation and (2) non-competitive negotiation.

A. Competitive Negotiation

A.I.D. requires that the lending opportunities be advertised and that the borrowers solicit and give fair consideration to all bids received. A.I.D. will publish a notice of each investment opportunity in the **Federal Register** and will also send copies of the notice to firms on the A.I.D. mailing list.

Notices of a prospective investment opportunity will describe the borrowing and will state the closing day and hour by which all bids must be received. The notices will also establish a time period during which the bids must remain open.

Since the notices are based upon information supplied by the borrower, it may at times be necessary for a lender to obtain additional information directly from the borrower before entering a bid. Direct contract between lenders and borrowers is encouraged by A.I.D.

B. Non-competitive Negotiation

A borrower may select a lender through a non-competitive negotiation process after obtaining the written consent of the Director or the Deputy Director of the Office of Housing and Urban Development. Such consent is discretionary and will be made only after A.I.D. has determined that the use of A.I.D. non-competitive procedures will be in the best interest of the borrower and of A.I.D. This consent may be for a specific project or for all projects within a stated time period.

A.I.D. may impose conditions for its approval of a non-competitive lender selection process including a condition that notices of the transactions be published.

A.I.D. reserves the right to approve the interest rate and other terms and conditions under both procedures for lender selection.

V. Loan Terms and Conditions

There is no standard form for a Loan Agreement or a promissory note. It is the lender's reponsibility to draft such agreements, and then present them to A.I.D. for approval. However, certain terms or limitations are required in each loan agreement. These terms and limitations are described below.

A. Paying and Transfer Agency.

A.I.D. has appointed The Riggs National Bank of Washington, D.C. to be the Paying and Transfer Agent to service the loans. The costs of Riggs' services are paid by the borrower and are usually deducted from the first disbursement. Riggs' fees are dependent upon the number of noteholders, and therefore it is important that borrowers and lenders familiarize themselves with the fee schedule. A copy of the standard agreement to be entered into by each borrower and Riggs is available upon request from A.I.D.

B. Maximum Interest Rates.

The maximum rate of interest that can be charged borrowers, exclusive of reasonable service and commitment charges, is one percent (1%) above the maximum rate periodically set by the Department of Housing and Urban Development for insured mortgages on multi-family dwellings. Service and commitment charges in excess of one percent (1%) of the principal amount of the loan are included in the calculation of the interest rate charged the borrowers.

Both fixed rate and floating rate loans have been approved by A.I.D. in recent months. Information on the current maximum interest rate may be obtained by telephoning the Office of Housing and Urban Development (202) 632–9637 or the FHA (202) 755–5284.

C. Terms and Amortization. Other limitations, including grace periods and methods of amortization may be contained in specific project authorizations. A.I.D. encourages borrowers and lenders to agree upon terms that are in their best interests.

D. Prepayment. Prepayment rights are negotiated by the borrower and the lender. However, A.I.D. may insist that the borrower be permitted to prepay, in whole or in part, without penalty, in order to protect certain A.I.D. interests, and the loan agreements must reflect this right.

E. Fees and Other Charges. Lenders may charge reasonable fees. A.I.D. requests that lenders estimate their legal fees and other costs and include them in a single fee to be collected from the loan amount. As noted in paragraph B above, fees in excess of one percent (1%) of the loan will be viewed as a presumptive attempt to increase the yield to the lender and will be factored over the life of the loan to determine if the maximum interest rate has been exceeded.

VI. The A.I.D. Guaranty

After a loan agreement has been signed, A.I.D. will sign a Contract of Guaranty. The A.I.D. guaranty will be evidenced by a guaranty legend on each note, by manual or facsimile signature, indicating that the repayment of the note is guaranteed by the full faith and credit of the United States Government.

It is A.I.D.'s policy to avoid putting lenders through a formal claims process, although this policy is subject to change without notice. Riggs, as fiscal agent, is required to notify A.I.D. in the event of non-payment by the borrower on the due date. A.I.D. and Riggs will trace the payment. If no payment is made to the lender by the tenth (10th) calendar day after the due date, A.I.D. may deem that a constructive claim has been made by the lender. A.I.D. will transfer the required amount to Riggs from the Reserve Fund, and will instruct Riggs to make the payment to the lender from the transferred funds. A.I.D. will then be subrogated to the lender's rights against the borrower.

Additional terms and limitations to be contained in each Contract of Guaranty are:

Finders or Agents Fees. Unless A.I.D. otherwise agrees, lenders are requested

not to pay finders' or agents' fees to persons within the borrowing country.

Partial Payment. A.I.D. retains the right to make installment payments on behalf of a borrower thus preventing a default on a loan.

Records and Reporting: A.I.D. requires reporting by lenders and access to records of the lender concerning the loan made to the borrower, and guaranteed by A.I.D.

The following A.I.D. Office of Housing and Urban Development officials are authorized to execute Contracts of Guaranty to evidence A.I.D.'s guaranty by signing a guaranty on each individual note by manual or facsimile signature:

Director
Deputy Director
Assistant Director for Operations
Assistant Director for Program Support
Assistant Director for Financial Affairs

VIII. Other Considerations

A. Eligibility of the Notes

The guaranteed notes are legal investments for practically all types of institutional investors. Savings and loan associations may invest up to one percent (1%) of their total assets in securities guaranteed under the Act. An investor should consult with its legal counsel on this matter before purchasing a note.

B. Tax Status

Interest received on the notes is deemed to be foreign source income under the Internal Revenue Code and is subject to Federal income tax. No stamp tax, duty or other levy of any nature whatsoever imposed by or in the country of the borrower or any taxing authority therein is payable on account of the HG loan transactions, or the transfer of any note, nor may such tax be withheld from the payment of interest or principal on any note.

C. Amendments

This publication and the procedures outlined herein may be amended by the Director of the Office of Housing and Urban Development. For further information, or if you wish to be placed on the mailing list for notices on investment opportunities, please contact the Director, Office of Housing and Urban Development, Room 625, SA/12, Agency for International Development, Washington, D.C. 20523, Telephone: (202) 632-9637.

Dated: September 13, 1982.

Fredrik A. Hansen,

Deputy Director, Office of Housing and Urban Development.

[FR Doc. 82-26913 Filed 9-29-82; 8:45 am]

BILLING CODE 4710-02-M

NATIONAL CAPITAL PLANNING COMMISSION

Establishment of Agency SES Performance Review Board and Names of Board Members

Section 4314(c) of Title 5, U.S.C. (as amended by the Civil Service Reform Act of 1978) requires that each agency establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards (PRB) to review, evaluate and make a final recommendation on performance appraisals assigned to individual members of the agency's Senior Executive Service. The PRB established for the National Capital Planning Commission also makes recommendations to the agency head regarding SES Performance awards, ranks and bonuses. Section 4314(c)(4) requires that notice of appointment of Performance Review Board members be published in the **Federal Register.**

The following persons have been appointed to serve as members of the Performance Review Board for the National Capital Planning Commission: Reginald W. Griffith, Donald F. Bozarth, Robert E. Gresham, Armen Tashdinian, Richard Petrocci.

For further information regarding SES Performance Review Board contact: Malcolm L. Trevor, Special Assistant to the Executive Director for Administration, National Capital Planning Commission, 1325 G Street, N.W., Suite 1003, Washington, D.C. 20576.

Dated: September 28, 1982.

Daniel H. Shear,

Secretary to the Commission.

[FR Doc. 82-27090 Filed 9-29-82; 8:45 am]

BILLING CODE 7520-01-M

NATIONAL COMMISSION ON SOCIAL SECURITY REFORM

National Commission on Social Security Reform; Meeting

AGENCY: National Commission on Social Security Reform.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forth-coming meeting of the National Commission on Social Security Reform. This notice also describes the functions of the Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: October 18, 1982, 2:00 p.m. to 6:00 p.m.

ADDRESS: Room 5110, Dirksen Senate Office Building, Washington, DC 20510.

FOR FURTHER INFORMATION CONTACT: Robert J. Myers, Executive Director, 736 Jackson Place NW., Washington, DC 20503; Telephone (202) 395-5132.

SUPPLEMENTARY INFORMATION: The National Commission on Social Security Reform is established by Executive Order No. 12335 dated December 16, 1981 to provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress on long-term reforms to put Social Security back on a sound financial footing.

The meeting of the Commission is open to the public. The proposed agenda includes:

Social Security financing; short and long term.

Such new business as the Chairman or the membership may put before the Commission.

Records are kept of all Commission proceedings, and are available for public inspection at the office of The Executive Director, National Commission on Social Security Reform, 736 Jackson Place NW., Washington, DC 20503.

Robert J. Myers,

Executive Director.

[FR Doc. 82-27018 Filed 9-29-82; 8:45 am]

BILLING CODE 3115-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Astronomical 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 Committee for Astronomical Sciences
Date and Time: October 18, 1982 9 a.m.-5 p.m.; October 19, 1982 9 a.m.-4 p.m.
Type of Meeting: Open.
Place: Room 338, National Science Foundation, 1800 G St., NW., Washington, D.C.
Contact Person: Dr. Laura P. Bautz, Director, Division of Astronomical Sciences, Room

615, National Science Foundation, Washington, D.C. 20550.
Summary Minutes: May be obtained from the contact person at the above address.
Purpose of Committee: To provide advice and recommendations concerning research programs, proposals, and projects in NSF-funded astronomy with the objective of achieving the highest quality forefront research for the funds allocated. To provide advice and recommendations concerning short range and long range plans in astronomy, including a recommendation of relative priorities.

Monday, October 18

Agenda:
9 a.m.–5 p.m.: Introduction, Status of FY 83 Budget and other Items, FY 84 Outlook, Long Range Priorities, Relation Between Ground- and Space-based Astronomy.

Tuesday, October 19

9 a.m.–4 p.m.: AURA Study of Reorganization, Presentation of the Astronomical Instrumentation and Development Program, Continued Discussion of Topics from Previous Day, Concerns of Committee.

M. Rebecca Winkler,

Committee Management Coordinator.

September 27, 1982.

[FR Doc. 82-26911 Filed 9-29-82; 8:45 am]

BILLING CODE 7555-01-M

National Science Board; Commission on Precollege Education in Mathematics, Science and Technology; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: National Science Board Commission on Precollege Education in Mathematics, Science and Technology.
Date and Time: October 19, 1982; 9 a.m.–5 p.m.
Place: National Science Foundation, 1800 G Street, NW., Room 540 (Board Room), Washington, D.C. 20550.
Type of Meeting: Open.
Contact Person: Dr. Richard S. Nicholson, Executive Director, Commission on Precollege Education in Mathematics, Science and Technology, Room 527, National Science Foundation, Washington, D.C. 20550.
Summary Minutes: Contact Dr. Richard S. Nicholson at the above address.
Purpose of Commission Meeting and Agenda: The four Task Groups, established at the July 9–10 meeting, will present preliminary findings to the full Commission which will provde guidance to the Groups for the continuance of Phase II activities.

M. Rebecca Winkler,

Committee Management Coordinator.

September 29, 1982.

[FR Doc. 82-26910 Filed 9-29-82; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Molecular Biology, Group B, of the Advisory Panel for the Division of Physiology, Cellular, and Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meetings:

Name: Subpanel on Molecular Biology, Group B, of the Advisory Panel for Physiology, Cellular and Molecular Biology.
Date and Time: Oct. 18 and 19, 1982, 9:00 a.m. to 5:00 p.m. each day.
Place: Room 1224, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of Meeting: Closed.
Contact Person: Dr. Huber R. Warner, Program Director, Biochemistry Program, Room 329, National Science Foundation, Washington, D.C. 20550.
Purpose of Subpanel: To provide advice and recommendations concerning support for research in Molecular Biology.
Agenda: To review and evaluate research 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 with exemptions (4) and (6) of 6 U.S.C. 552(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. R. Winkler,

Committee Management Coordinator.

September 27, 1982.

[FR Doc. 82-26909 Filed 9-29-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Systems of Records; Annual Publication

AGENCY: Nuclear Regulatory Commission.

ACTION: Notices of Systems of Records, Annual Publication.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires each Federal agency to publish annually in the **Federal Register** a notice of the existence and character of their systems of records notices that contain personal data information. The Act also requires that the information contained in each system of records be maintained in a manner that is timely, relevant, and up-to-date. This notice clarifies and updates the NRC Systems of Records. This compilation includes 38 Systems of Records as well as the Prefatory Statement of General Routine Uses.

FOR FURTHER INFORMATION CONTACT:

Kostantina K. Pappas, Freedom of Information/Privacy Act Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–8133.

NRC Systems of Records

1. Appointment and Promotion Certificate Records—NRC
2. Biographical Information Records—NRC
3. Byproduct Material License Records—NRC
4. Conflict of Interest Files—NRC
5. Contracts Records Files—NRC
6. Development and Advancement for Regulatory Employees (DARE) Records—NRC
7. Division of Technical Information and Document Control Workload Assignment and Production Records—NRC
8. Employee Appeals, Grievances and Complaints Records—NRC
9. Equal Employment Opportunity Records Files—NRC
10. Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records—NRC
11. General Personnel Records (Official Personnel Folder and Related Records)—NRC
12. Government Motor Vehicle Operators License Files—NRC
13. Incentive Awards Files—NRC
14. Employee Alcoholism and Drug Abuse Program Files—NRC
15. National Standards Committee Membership Files—NRC
16. Facility Operator Licensees Record Files (10 CFR Part 55)—NRC
17. Occupational Injuries and Illness Records—NRC
18. Office of Inspector and Auditor Index File and Associated Records—NRC
19. Official Personnel Training Records Files—NRC
20. Official Travel Records—NRC
21. Payroll Accounting Records—NRC
22. Personnel Performance Appraisals—NRC
23. Personnel Research and Test Validation Records—NRC
24. Property and Supply System (PASS)—NRC
25. Oral History Program—NRC
26. [Revoked]
27. Radiation Exposure Information and Reports System (REIRS) Files—NRC
28. Recruiting, Examining and Placement Records—NRC
29. Document Control System—NRC
30. Manpower System (MPS) Records—NRC
31. Correspondence and Records Branch, Office of the Secretary—NRC
32. Source and Special Nuclear Material License Records—NRC
33. Special Inquiry File—NRC

34. Advisory Committee on Reactor Safeguards (ACRS) Correspondence Index and Associated Records—NRC
35. [Revoked]
36. Employee Locator Records Files—NRC
37. Information Security Files and Associated Records—NRC
38. Mailing Lists—NCR
39. Personnel Security Files and Associated Records—NCR
40. Facility Security Support Files and Associated Records—NCR

These systems of records are those systems maintained by the Nuclear Regulary Commission which contain personal information about individuals, and from which such information can be retrieved by reference to an individual identified.

The notice for each system of records states the name and location of the record system, the authority for and manner of its operation, the categories of individuals which it covers, the types of records which it contains, the sources of information in those records, and the proposed "routine uses" of each system of records. Each notice also includes the business address of the NRC official who will inform interested persons of the procedures whereby they may gain access to and correct records pertaining to themselves.

One of the purposes of the Privacy Act, as stated in Section 2(b)(4), is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to "* * * disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information." The NRC intends to follow these principles in transferring information to another agency or individual as a "routine use," including assurance that the information is relevant for the purposes for which it is transferred.

Prefatory Statement of General Routine Uses

The following routine uses apply to each system of records notice set forth below which specifically references this Prefatory Statement.

1. In the event that a system of records maintained by the NRC to carry out its functions indicates a violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rules or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed, as a routine use, to a Federal, state, local or foreign agency, if necessary, to obtain information relevant to an NRC decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal, state, local or foreign agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of discovery and in presenting evidence to a court, magistrate, administrative tribunal, or grand jury, including disclosures to opposing counsel in the course of settlement negotiations.

5. Disclosure may be made, as a routine use, to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

6. A record from this system of records may be disclosed, as a routine use, to an NRC contractor on a "need to know" basis for a purpose within the scope of the pertinent NRC contract. Such access will be granted to an NRC contractor by a system manager only after satisfactory justification has been provided to the system manager.

NRC-1

SYETEM NAME:

Appointment and Promotion Certificate Records—NRC.

SYSTEM LOCATION:

Primary system—For Headquartrs personnel, Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Candidates for employment and NRC employees who are being considered for promotion and reassignment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains vacancy announcements, applications for vacancies, selection certificates, the results of reference checks on employees, performance appraisals, and related records. The records pertain to specific announced vacancies which have been posted in accordance with the NRC Vacancy Announcement System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 1302 (1976);
b. 42 U.S.C. 2201(d) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To prepare reports for the Office of Personnel Management and/or Merit Systems Protection Board;

b. By the Office of Personnel Management and/or Merit Systems Protection Board to resolve complaints and grievances regarding employment and promotion selection;

c. For audit and review by the Office of Personnel Management and/or Merit Systems Protection Board;

d. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders in the Division of Organization & Personnel, Bethesda, MD or the NRC Regional Offices, I–IV, or the NRC Warehouse.

RETRIEVABILITY:

Information is accessed by vacancy announcement number, and by name within the individual vacancy announcement folders.

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 2 years from date of selection, then personal records destroyed by shredding; nonpersonal records are destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Staffing Section, Staffing & Position Evaluation Branch, Division of Organization & Personnel, Office of Administration, NRC, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, NRC, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, individual's current and previous supervisors, references, general personnel records (Official Personnal Folders and related records), and other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-2

SYSTEM NAME:

Biographical Information Records—NRC.

SYSTEM LOCATION:

Office of Public Affairs, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commissioners, members of the Atomic Safety and Licensing Board and Appeal Board Panels, and senior NRC staff members.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education and training, employment history, and other general biographical data relating to the Commissioners, members of the Atomic Safety and Licensing Board and Appeal Board Panels, and senior NRC staff members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2241, 5841, 5843(a), 5844(a), 5845(a), and 5849 (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to the press;

b. To provide information to other persons and agencies requesting this information; and

c. For the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Maintained in unlocked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until updated or association with NRC is discontinued, then destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Public Affairs, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by each individual and approved for use by the individual involved.

NRC-3

SYSTEM NAME:

Byproduct Material License Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate system—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 2; and the NIH Computer facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and licensees (active and inactive) for byproduct material licenses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information contained in this system reflects data supplied by applicants and licensees and developed by the NRC staff in the license review and authorization process with respect to the possession and use of byproduct material. System component records developed and maintained by the NRC staff also include summary and index type data promoting quick access to and breakout of such information as:

a. Alphabetical listings of active and inactive licenses and applicants for licenses arranged by state and by a master listing;

b. Cross indexes of names to assigned license numbers;

c. Dates of license issuance and expiration; and

d. Geographic location of licensees by state and town.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(o) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide records to state health departments for their information and use;

b. To provide information to Federal, state and local health officials, and other persons in the event of incident or exposure, for purposes of their information, investigation and protection of public health and safety; and

c. For any of the routine uses specified in the Prefatory Statement.

In addition, certain of the information provided in this category is routinely placed in the NRC's Public Document Room.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper, index cards, computer tapes and printouts, microfilm and mag cards.

RETRIEVABILITY:

System data is indexed by licensee/applicant name within state; alphabetically by licensee name within license expiration time periods; by assigned license number in juxtaposition with licensee name.

SAFEGUARDS:

Maintained in unlocked file cabinet under visual control of file supervisor. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are continuously changed or amended as new information is developed or individual licenses are cancelled or terminated; license files are transferred to Federal Records Center in Suitland, Maryland, when they become inactive or terminated. Obsolete data, except for record copy maintained at Federal Records Center, is destroyed quarterly through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Data supplied by applicants and licensees and developed by NRC technical staff.

NRC–4

SYSTEM NAME

Conflict of Interest Files—NRC.

SYSTEM LOCATION:

Primary system—Office of the General Counsel, NRC, 1717 H Street, NW, Washington, DC.

Duplicate systems—duplicate systems exist, in whole or in part, at the location listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are employees, special employees and consultants of NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to:

a. General biographical data (i.e., name, birthdate, home address, position title, home and business telephones, citizenship, educational history, employment history, professional society memberships, honors, fellowships received, publications, licenses, and special qualifications);

b. Financial status (i.e., nature of financial interests and in whose name held, creditors, character of indebtedness, interest in real property, monthly U.S. Civil Service Annuity, and status as Uniformed Services Retired Officer);

c. Certifications by employees that they and members of their families are in compliance with the Commission's stock ownership regulations;

d. Requests for approval of outside employment by NRC employees and NRC responses thereto;

e. Determination (i.e., no conflict or apparent conflict of interest, questions requiring resolution, steps taken toward resolution); and

f. Information pertaining to appointment (i.e., proposed period of NRC service, estimated number of days of NRC employment during period of service, proposed pay, clearance status, description of services to be performed and explanation of need for the services, justification for propsed pay, description of expenses to be reimbursed and dollar limitation, and description of government-owned property to be in possession of appointee).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 18 U.S.C. 201 (1976);
b. Executive Order 11222, May 8, 1965;
c. 10 CFR 0.735–29; 10 CFR 0.735–40.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide the Department of Justice, Office of Personnel Management, and/or Merit Systems Protection Board with information concerning an employee in instances where this office has reason to believe a Federal law may have been violated or where this office desires the advice of the Department, Office or Board concerning potential violations of Federal law;

b. For any of the routine uses specified in the prefatory statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Retained in office file for 2 years after employee leaves position in which statement is required, or for 2 years after separation, whichever is earlier, then forwarded to the Federal Records Center, Suitland, Maryland.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information he or she supplied, or comes from the office to which the individual is to be assigned.

NRC–5

SYSTEM NAME:

Contracts Records Files—NRC

SYSTEM LOCATION:

Primary system—Division of Contracts, NRC, 4550 Montgomery Avenue, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are employed as NRC consultants or contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain personal information (such as technical qualifications, education, rates of pay, employment history) of contractors and their employees, and other contracting records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2051, 2201, and 5845(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to Department of Health and Human Services, Defense Contract Audit Agency, General Accounting Office, and other Federal agencies for audits and reviews; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Accessed by contract number and purchase order number, cross-referenced with the name of the consultant, contractor, or vendor.

SAFEGUARDS:

Maintained in unlocked conserver files. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Contracts greater than $10,000 are destroyed 6 years and 6 months after final payment; $10,000 or less—3 years after final payment. Records are destroyed through regular trash disposal system, except for confidential business (proprietary) information which is destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Contracts, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal confidential business (proprietary) information.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the contractor or potential contractor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–6

SYSTEM NAME:

Development and Advancement for Regulatory Employees (DARE) Records—NRC.

SYSTEM LOCATION:

Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who desire to enhance their training and experience qualifications for movement into administrative, paraprofessional and professional ranks.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains personnel qualification statements, job descriptions, self-evaluation forms, examination results, supervisory evaluation forms, performance appraisals, DARE counselors' reports, training guides, course plans, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2000e and 5871 (1976);

b. Executive Order 11478, August 8, 1969.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To prepare reports for transmittal to the Office of Personnel Management and/or Merit Systems Protection Board;

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF THE RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Information accessed by name.

SAFEGUARDS:

Records are maintained in locked desk drawer and access is limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Active records retained indefinitely. Inactive records are sent to the National Personnel Records Center within 30 days of the date of the employee's separation from the Federal service and records of non-selected applicants retained up to 1 year, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

DARE Program Coordinator, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source. Testing material may not be disclosed to the extent such disclosure would compromise the testing process.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, individual's current and previous supervisors within and outside NRC, and the DARE counselors and program coordinator.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5) and (6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-7

SYSTEM NAME:

Division of Technical Information and Document Control Workload Assignment and Production Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Technical Information and Document Control, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees assigned to word processing and printing/reproduction and graphic units.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain, under employee name, listings of work assignments and individual production records.

AUTHORITY FOR MANITENANCE OF THE SYSTEM:

31 U.S.C. 21, 22, 24, 49, 54, and 66a(1976); 42 U.S.C. 2201(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

Information in these records may be used by the Division of Technical Information and Document Control for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper and log sheets.

RETRIEVABILITY:

Indexed by employee name within period reports.

SAFEGUARDS:

Files relating to comparative employee production and analysis thereof are maintained in locked cabinets. Budgetary and staffing projection data maintained in locked and unlocked equipment. All files are under immediate control of supervisory staff.

RETENTION AND DISPOSAL:

Records are retained in office files for 2 years, and then destroyed by regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Technical Information and Document Control, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual employees, supervisory assignment and analysis records.

NRC-8

SYSTEM NAME:

Employee Appeals, Grievances and Compliants Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate system—duplicate systems exist, in whole or in part, at locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment, current and former NRC employees, and annuitants who have filed complaints or initiated grievance or appeal proceedings as a result of a determination made by the NRC, Office of Personnel Management and/or Merit Systems Protection Board, or a Board or other entity established to adjudicate such grievances and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes all documents related to grievances, arbitrations, negative determinations regarding within-grade salary increases and exit interviews. It contains information relating to determinations affecting indivduals made by the NRC Office of Personnel Management and/or Merit Systems Protection Board. The records consist of the initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimony of witnesses, investigative reports, instructions to an NRC office or division concerning action to be taken to comply with decisions, and related correspondence, opinions, and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(d) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information to the Office of Personnel Management and/or Merit Systems Protection Board pursuant to applicable requirements relative to grievances and appeals;

b. To provide appropriate data to union representatives and third parties in connection with grievances, arbitration actions and appeals. Third parties may include the Federal Service Impasses Panel and Federal Labor Relations Authority; and

c. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, binders, and index cards.

RETRIEVABILITY:

These records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained 3 years after case is closed, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Labor Management and Employee Relations Branch, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains, NRC, Office of Personnel Management and/or Merit Systems Protection Board officials; affidavits or statements from employees, union representatives, or other persons; testimony of witnesses; and official documents relating to the appeal, grievance or complaint; Official Personnel Folder; and other Federal agencies.

NRC-9

SYSTEM NAME:

Equal Employment Opportunity Records Files—NRC.

SYSTEM LOCATION:

Office of Small and Disadvantaged Business Utilization and Civil Rights, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEMS:

Applicants for NRC employment and current and former NRC employees who have filed a complaint of discrimination with the Office of Small and Disadvantaged Business Utilization and Civil Rights.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system or records contains copies of written reports by counselors; the investigative file; documentation of withdrawn, cancelled, rejected and/or adjusted discrimination complaints; complainant's name, title and grade; kind of discrimination alleged; description of action, decision, or condition giving rise to the complaint; description of remedial action; description of disciplinary action, if any; and copy of the letter of proposed disposition of the complaint and right to a hearing; and record of appeals examiner's finding, analysis, and recommended decision.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2000e and 5891(1976);

b. Executive Orders 11246, September 24, 1965; 11375, October 13, 1967; and 11478, August 8, 1969.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information relative to EEO matters to the Equal Employment Opportunity Commission, the Office of Personnel Management and/or Merit Systems Protection Board in accordance with applicable requirements; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, binders, index cards, and on computer tapes (minority code only).

RETRIEVABILITY:

Accessed by name.

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Small and Disadvantaged Business Utilization and Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, counselors, NRC, the Office of Equal Employment Opportunity Commission, the Office of Personnel Management and/or Merit Systems Protection Board officials, affidavits or statements from employees, testimony of witnesses, and official documents relating to the complaints.

SYSTEMS EXEMPTED FOR CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552(c)(3); (d); (e)(4) (G), (H), and (I); and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-10

SYSTEM NAME:

Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Rules and Records, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2, and at the Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have made FOIA or PA requests for NRC records.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a copy of the letter from the requester, the NRC response, and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 552a(1976); 42 U.S.C. 2201(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. If an appeal or Court suit is filed with respect to any records denied;

b. For preparation of annual reports required by 5 U.S.C. 552 and 5 U.S.C. 552a; and

c. For any of the routine uses specified in the Prefatory Statement.

Most of the FOIA records are placed in the NRC Public Document Room and made available to the public.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Accessed by chronologically assigned number and individual's name.

Safeguards:

Privacy Act records are maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access. Copies of most of the FOIA records are publicly available in the NRC Public Document Room.

RETENTION AND DISPOSAL:

Retained 2 years from date of reply if request is granted, 5 years if denied, and 4 years if appealed. Except for classified, proprietary, and other sensitive information which is destroyed by shredding, records are disposed of through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Requests are made by individuals or other requesters. The response to the request is based upon information contained in NRC records.

NRC–11

SYSTEM NAME:

General Personnel Records (Official Personnel Folder and Related Records)—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel, Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland. For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

Duplicate systems—Duplicate systems exist, in whole or in part at the locations listed in Addendum I, Parts 1 and 2 and at the (NIH) National Institutes of Health computer facility, Bethesda, Maryland. The duplicate systems maintained in a particular office, division, or branch may contain information of specific applicability to employees in that organization in addition to that information contained in the primary system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current NRC employees, and those formerly employed by the NRC (death, resignation, retirement, and separation).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain Personal Qualifications Statement (SF–171) and related documents such as information about an individual's birth date, social security account number, veteran preference status, tenure, physical handicaps, past and present salaries, grades, position titles, training, test performances, minority group designator, life insurance, health benefits, beneficiaries, academic letters of recommendation, probationary period appraisals, and awards. This system also contains: notification of personnel action, SF–50, and documents supporting the action taken; letters of commendation and reprimand; documentation of charges and decisions on charges; medical records related to initial appointment; notices of reductions-in-force; and locator files. Some duplicate records may contain office-specific applications, personnel qualification statements (SF–171), resumes and conflict of interest correspondence, and other related personnel records in addition to those contained in the primary system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 7901; 21 U.S.C. 1180; and 42 U.S.C. 2201(d) and 4581(1976);

b. Executive Order 10581, September 15, 1954.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management and/or Merit Systems Protection Board for making a decision when an NRC employee or former NRC employee questions the validity of a specific document in an individual's record;

b. To provide information to a prospective employer of a Government employee. Upon transfer of the employee to another Federal agency, the information is transferred to such agency;

c. To update the Office of Personnel Management systems concerning the Central Personnel Data File (CPDF), the Executive Inventory File and security investigations index hires, and to update adverse actions and terminations records of the Merit Systems Protection Board;

d. To provide statistical reports to Congress, agencies, and the public on characteristics of the Federal work force;

e. To provide information to the Office of Personnel Management and/or Merit Systems Protection Board for review and audit pruposes;

f. To provide members of the public with names, position titles, grades, salaries, appointments (temporary or permanent), and duty stations of employees;

g. Medical records may be used for providing information to the Public Health Service in connection with Health Maintenance Examinations and to other Federal agencies responsble for Federal benefit programs administered by the Department of Labor (Office of Workmen's Compensation Programs) and the Office of Personnel Management; and

h. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, disk, punched cards and microfilm.

RETRIEVABILITY:

Records are indexed by any combination of name, birth date, social security account number, or identification number.

SAFEGUARDS:

OPFs are maintained in lockable cabinets; related documents may be in unlocked file cabinets and electromechanical file organizer. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

The Official Personnel Folder is sent to the next Federal employing office if the employee transfers, or to the National Personnel Records Center within 30 days of the date of the employee's separation from the Federal service. Some records such as letters of reprimand, indebtedness, and vouchers are maintained for two years, or destroyed by shredding when an individual resigns, transfers, or is separated from the Federal service. Cooperative Eduation Program documentation other than that in the OPF is retained until the employee leaves the program. SF–7, "Service Record Card," is retained indefinitely after separation or transfer.

SYSTEM MANAGER(S) AND ADDRESS:

For, Cooperative Education Program employees, Chief, Personnel Resources and Employment Program Branch, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. For all others, Chief, Staffing Section, Staffing and Position Evaluation Branch, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source. Testing material may not be disclosed to the extent that disclosure would compromise the testing process.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records come from the individual to whom it applies, is derived from information supplied by that individual, or is provided by agency officials, other Federal agencies, universities, or persons, including references, private and Federal physicians, and medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k) (5) and (6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-12

SYSTEM NAME:

Government Motor Vehicle Operators License Files—NRC.

SYSTEM LOCATION:

Primary system—Building and Operations Support Branch, Division of Facilities and Operations Support, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole, or in part, at the locations listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC Headquarters and Regional Office employees licensed to drive government vehicles.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain identifying data on individuals, including but not limited to name, social security account number, hair color, and sex.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 40 U.S.C. 491 (1976):

b. Executive Order 10579, December 1, 1954.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on index cards and on paper in file folders.

RETRIEVABILITY:

Indexed alphabetically by employee name.

SAFEGUARDS:

Maintained in locked file cabinets under control of supervisors. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 3 years or until cancellation of individual license, whichever comes first, then destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Building and Operations Branch, Division of Facilities and Operations Support, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individuals on whom the record is maintained and medical examiners.

NRC-13

SYSTEM NAME:

Incentive Awards Files—NRC.

SYSTEM LOCATION:

Primary system—Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who merit special recognition for achievements either within or outside the employee's job responsibilities and for length of service to the Government. Awards include both NRC awards and awards of other agencies and organizations for which NRC employees are eligible.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains employee's name, title, grade, and salary; justification to support recommendation and authorization for cash award; actions by approving officials; record of individuals receiving awards; suggestions and evaluations of suggestions; citation to be used; and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4501–4506, 5336 (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management and/or Merit Systems Protection Board to process and approve nominations or awards;

b. By the Office of the Attorney General and the President of the United States in reviewing recommended awards;

c. To make reports to the Office of Personnel Management and/or Merit Systems Protection Board;

d. By other government agencies to recommend whether suggestions should be adopted in instances where the suggestion made by an NRC employee affects the functions or responsibilities of the agencies; and

e. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders.

RETRIEVABILITY:

Information is accessed by name.

SAFEGUARDS:

Maintained in unlocked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RENTENTION AND DISPOSAL:

Retained for 2 years, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Labor Management and Employee Relations Branch, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Sams as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Supervisors of employees, individuals submitting suggestions, Division of Organization and Personnel staff, Office of Personnel Management, Merit Systems Protection Board, other Federal agencies, and Official Personnel Folders.

NRC-14

SYSTEM NAME:

Employee Alcoholism and Drug Abuse Program Files—NRC.

SYSTEM LOCATION:

Office of Administration, U.S. Nuclear Regulatory Commission, 7735 Old Georgetown Road, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and/or family members who have been counselled by or referred to the Manager of the Employee Alcoholism and Drug Abuse Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of NRC employees and/or their families who have been referred to the manager of the Employee Alcoholism and Drug Abuse Program for counselling, and the results of any counselling which may have taken place. The records contain information as to the nature of each individual's problem, progress, and subsequent treatment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

21 U.S.C. 1180 (1972); 42 U.S.C. 4561 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For statistical reporting purposes; and

b. Any disclosure of information pertaining to an individual will be made in compliance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulation, 42 CFR Part 2, as authorized by 21 U.S.C. 1175 and 42 U.S.C. 4582, as amended.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on paper in file folders.

RETRIEVABILITY:

Information accessed by name of the individual counselled.

SAFEGUARDS:

Files are maintained in a safe under the immediate control of the Manager of the Employee Alcoholism and Drug Abuse Program.

RETENTION AND DISPOSAL:

Retained for 3 years after successful completion of treatment or other termination of contact, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Employee Alcoholism and Drug Abuse Program, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information compiled by the Manager of the Employee Alcoholism and Drug Abuse Program during the course of counselling with an NRC employee and/or members of the employee's family.

NRC-15

SYSTEM NAME:

National Standards Committee Membership Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Nuclear Regulatory Research, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the National Institutes of Health Computer Facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who are serving on committees, subcommittees, working groups, etc., that are developing nuclear standards.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is a comprehensive record of NRC personnel on the nuclear standards committees and contains members' names, the names of the committees to which they belong, and the names of the NRC offices in which the members work.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(b)(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used:

a. To provide information to persons or agencies requesting this information, including but not limited to: (1) Persons using the NRC Public Document Room, and (2) the Nuclear Standards Management Center, Oak Ridge National Laboratory (ORNL), Oak Ridge, Tennessee; and

b. For the routine use specified in paragraph number 5 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained on lists and computer tape and disk.

RETRIEVABILITY:

Records are indexed by the individual's name, by individual's office or region and by the committee title.

SAFEGUARDS:

Maintained in unlocked file cabinet.

RETENTION AND DISPOSAL:

Updated when information is out of date. The information is retained until the person is no longer a member of the committee or no longer an NRC employee, whichever occurs first. Computer tape and disk are destroyed by computer deletion, and lists are destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies or from his/her supervisor.

NRC-16

SYSTEM NAME:

Facility Operator Licensees Record Files (10 CFR Part 55)—NRC.

SYSTEM LOCATION:

Primary system—Operator Licensing Branch, Division of Human Factors Safety, Office of Nuclear Reactor Regulation, NRC, 4550 Montgomery Avenue, Bethesda, Maryland, or appropriate Regional Office.

Duplicate systems—duplicate systems exist, in whole or in part, at the Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals licensed pursuant to 10 CFR Part 55, new applicants whose applications are being processed, and individuals whose licenses have expired.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the application for a license, certification of competency, certification of medical history and results of medical examination and related correspondence, operator examination and examination results and license or denial letter.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2137 and 2201(i)(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To determine if the individual meets the requirements of 10 CFR Part 55 to take an examination or to be issued an operator's license;

b. To provide researchers with information for statistical evaluations related to selections, training and examination of facility operators;

c. To provide for examination and testing material and obtain results from contractors;

d. To provide facility management with sufficient information to enroll the individuals in the licensed operator requalification program; and

e. For any of the routine uses specified in the Prefatory Statement, except paragraph number 3.

In addition, information related to the application, certification of competency, and license or denial letter will routinely be made available in the NRC's Public Document Room.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on index cards, paper in file folders, and microfiche.

RETRIEVABILITY:

Records are accessed by name and docket number.

SAFEGUARDS:

Maintained in file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Reactor Operator Licensees Records:

a. Medical information: retained for 4 years after the individual's license expires, then destroyed;

b. Examination and examination results: retained for 2 years after the issuance of a license or denial letter. A summary report is retained until 4 years after the individual's license expires;

c. Other information: destroyed when it becomes 2 years old; and

d. Docket information: destroyed 4 years after an individual's latest license expires.

Records are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Operator Licensing Branch, Division of Human Factors Safety, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or appropriate Regional Administrator.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555 or Regional Administrator.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual applying for a license, the facility manager, a licensed physician, members of the Operator Licensing Branch, and contractor personnel.

NRC-17

SYSTEM NAME:

Occupational Injuries and Illness Records—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel, Building and Operations Branch, Division of Facilities and Operations Support, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

For Regional Personnel, at each of the Regional Offices listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who report an occupational injury or illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain descriptions of injury or illness, treatment, and disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 29 U.S.C. 657(c)(1976);

b. Executive Order 12196, February 1980.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the NRC Safety Officer and/or Branch supervisor to prepare periodic statistical reports on employees' health and injury status and health and safety hazards in NRC physical structures, all for transmission to an review by the Department of Labor;

b. For transmittal to the Secretary of Labor or an authorized representative in accordance with duly promulgated regulations;

c. For transmittal to the Office of Personnel Management and/or Merit Systems Protection Board as required to support individual claims; and

d. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders.

RETRIEVABILITY:

Indexed by assigned employee case number or name under report category.

SAFEGUARDS:

Maintained in locked file cabinet under visual control of section employees. Access to and use of these

records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 5 years after date of report, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC Public Health Unit, NRC Headquarters and Regional Office feeder reports and forms with original information largely supplied by employees concerned.

NRC–18

SYSTEM NAME:

Office of Inspector and Auditor Index File and Associated Records—NRC.

SYSTEM LOCATION:

Office of Inspector and Auditor, NRC, 4340 East-West Highway, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals referred to in potential or actual cases and matters of concern to the Office of Inspector and Auditor and correspondents on subjects directed or referred to the Office of Inspector and Auditor.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical index file bearing individual names. The index provides access to associated records which are arranged by subject matter, title, or identifying number(s) and/or letter(s). The system incorporates the records of all Office of Inspector and Auditor correspondence, cases, matters, memoranda, and materials, including but not limtied to audit reports, investigative reports, inspection reports, correspondence to and from the Office of Inspector and Auditor, memoranda, legal papers, evidence, exhibits, audit data, investigative data, and work papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2035(c), 2201(c), and 5841(f)(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. A record in the system of records may be disclosed as a routine use to a Federal, state, local or foreign agency or to an individual or organization if the disclosure is reasonably necessary to elicit information or to obtain the cooperation of a witness or an informant;

b. A record in the system of records relating to a case or matter falling within the purview of the Office of Inspector and Auditor that has been referred for audit, inspection or investigation may be disclosed as a routine use to the referring agency, group, organization or individual to notify such agency, group, organization or individual of the status of the case or matter or of any decisions or determinations that have been made;

c. A record in the system of records relating to an individual held in custody pending arraignment, trial, or sentence, or after conviction, may be disclosed as a routine use to a Federal, state, local or foreign prison, probation, parole or pardon authority, to any agency or individual concerned with the maintenance, transportation, or release of such an individual;

d. A record in the system of records relating to a case or matter may be disclosed as a routine use to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

e. A record in the system of records may be disclosed as a routine use to a Federal, state, local or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

f. A record in the system of records in the nature of an audit, inspection or investigation report relating to the integrity and efficiency of the Commission operation and management may be disseminated outside the Commission as part of the Commission's responsibility to inform the Congress and the public about Commission operations; and

g. A record in the system of records may be disclosed for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information contained in this system is stored manually on index cards and in file jackets.

RETRIEVABILITY:

Information is retrieved from index cards by the name of the individual and from the jackets by number(s) and/or letter(s) assigned and appearing on the index card.

SAFEGUARDS:

The index is maintained in unlocked file cabinets and the associated records are located in lockable metal filing cabinets or safes. All records are under visual control and available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Retained 10 years in NRC storage from the time the case is closed, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Inspector and Auditor, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Information classified pursuant to Executive Order 12356 will not be disclosed. Information received in confidence will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited, to NRC officers and employees, Federal, state, local, and foreign agencies, and other persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(1), (k)(2), (k)(5), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–19

SYSTEM NAME:

Official Personnel Training Records Files—NRC.

SYSTEM LOCATION:

Primary system—Management Development and Training Staff, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for or were selected for either NRC or other government/non-government training courses or programs, including the NRC Senior Executive Service Candidate Development Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the individual's educational background, work experience, performance appraisals, and training courses, including applications for training, training requests, authorizations for training, course grades, evaluations and other related personnel information and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 4103 (1976), 3396 (October 13, 1978), and 4311 et seq. (1978);

b. Executive Order 11348, April 20, 1967, as amended by Executive Order 12107, December 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Information may be extracted from the records and made available to the Office of Personnel Management, other Federal, state and local government agencies; and educational institutions for use in training programs related to NRC employees; and

b. Information in these records may be disclosed for the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on paper in file folders; being converted to maintenance within personnel computer storage system.

RETRIEVABILITY:

Information is accessed by name.

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 5 years, or until no longer needed, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Management Development and Training Staff, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom it applies, the employee's supervisor, and training groups, agencies, or educational institutions.

NRC–20

SYSTEM NAME:

Official Travel Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Accounting and Finance, Office of Resource Management, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; and at the NIH computer facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, prospective NRC employees, consultants, and invitational travelers for NRC programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain Request and Authorization for Official Travel forms and Travel Vouchers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 5701 (1976); 31 U.S.C. 21, 22, 24, 49, 54, 66a, and 952 (1976);

b. Federal Travel Regulations, Federal Property Management Regulations, 41 CFR Part 101–71.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For transmittal to the U.S. Treasury for payment;

b. For transmittal to the Department of State or an embassy for passports or visas;

c. For quarterly report to the General Services Administration of individuals approved for first class travel; and

d. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders, on disks, and on magnetic tape.

RETRIEVABILITY:

Records are accessed by name, social security account number, authorization number, estimated travel start day, authorization process day, voucher process day, and voucher payment schedule number.

SAFEGUARDS:

Maintained in locked file cabinets in same room as users. For ADP records, a key word, initials, and NRC Office of Resource Management's account number must be known in order to retrieve information.

RETENTION AND DISPOSAL:

Retained for 5 years, then destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Accounting and Finance, Office of Resource Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the individual, the organizational component approving the travel, outside transportation agents and rate books for cost information.

NRC-21

SYSTEM NAME:

Payroll Accounting Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Accounting and Finance, Office of Resource Management, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, special Government employees, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pay, leave, and allowance histories.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 21, 22, 24, 49, 54, 66a, and 952 (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes;

b. For reporting tax withholding to Internal Revenue Services and appropriate state and local taxing authorities;

c. For FICA deductions to the Social Security Administration;

d. For dues deductions to labor unions;

e. For withholdings for health insurance to the insurance carriers and the Office of Personnel Management;

f. For charity contribution deductions to agents of charitable institutions;

g. For annual W–2 statements to taxing authorities and the individual;

h. For transmittal to the Office of Management and Budget for review of budget requests;

i. For withholding and reporting of retirement, reemployed annuitants and life insurance information to the Office of Personnel Management;

j. For transmittal of information to state agencies for unemployment purposes; and

k. For any f the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, microfiche, magnetic tape, and disks.

RETRIEVABILITY:

Accessed by name and social security account number.

SAFEGUARDS:

File folders, microfiche, tape, and disks, including backup data, are maintained in secured locked rooms after working hours. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

File folders are retained for 3 years after transfer or separation of employee, then destroyed by shredding. ADP information is retained on disks for 1 year, transferred to and retained on magnetic tape for 3 years, then the tape is erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Accounting and Finance, Office of Resource Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the individual and the Division of Organization and Personnel.

NRC-22

SYSTEM NAME:

Personnel Performance Appraisals—NRC: Part A, GG–18 employees and below, hourly wage employees, scientific and technical schedule employees, administratively determined rate employees; Part B, Senior Executive Service and equivalent employees.

SYSTEM LOCATION:

Primary system: Part A: For Headquarters personnel, Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland. Part B: Chairman, Performance Review Board, 7735 Old Georgetown Road, Bethesda, Maryland. For regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This sytem of records contains performance appraisals and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4301, et seq. and 42 U.S.C. 2201(d)(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on paper in folders.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Maintained in lockable file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Part A: Records are normally retained for 3 years. Part B: Retained for 5 years, or until the fifth annual appraisal is completed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Part A: Chief, Staffing Section, Staffing & Position Evaluation Branch, Division of Organization & Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Part B: Chairman, Performance Review Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure" for each part.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure" for each part.

RECORD SOURCE CATEGORIES:

Part A: Individual to whom record pertains and employee's supervisors.

Part B: Individual to whom record pertains and employee's supervisors; any documents and sources used to develop critical elements and performance standards for that senior Executive Service position.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d)(e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-23

SYSTEM NAME:

Personnel Research and Test Validation Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate system—duplicate system exists, in whole or in part, at the Department of Energy computer facility, Germantown, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and applicants for NRC employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include education and employment history, test scores, responses to test items and questionnaires, interview data and ratings of supervisors regarding the individuals to whom the records pertain. Data are collected on a project basis and are used for the construction, analysis and validation or written tests; for research on personnel measurement and selection methods and techniques, and research on personnel management practices such as performance evaluation or productivity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(d)(1976) and 44 U.S.C. 3101(1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To exchange among the NRC, Office of Personnel Management, Merit Systems Protection Board, and other Federal agencies for personnel research purposes and used to aid in identifying employees included in research studies that extend over a period of time; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on punched cards, computer tape, and computer storage

RETRIEVABILITY:

Records are maintained by project. Personnel information can be retrieved by name or personal identifier.

SAFEGUARDS:

Records are kept in locked files and access is limited to staff.

RETENTION AND DISPOSAL:

Retained for 3 years, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Management and Policy Branch, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some records contain information received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source. Testing material may not be disclosed to the extent such disclosure would compromise the testing process.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual Federal employees or applicants, supervisors, assessment center assessors, Office of Personnel Management, or NRC personnel files and records, and other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-24

SYSTEM NAME:

Property and Supply System (PASS)—NRC.

SYSTEM LOCATION:

Property Management Section, Property and Supply Branch, Division of Facilities and Operations Support, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, consultants, and contrators who have custody of items of personal property, including major items of equipment (e.g., office furnishings, automobiles, etc.) and items of sensitive property (e.g., cameras, portable calculators, and cassette recorders).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information about the equipment (type, make, model, serial number, etc.); and information about the custodians of the equipment (social security account number, office, and office location).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66a(a)(3)(1976) and 40 U.S.C. 483 (b) and (c), 487(a)(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to maintain inventory of equipment;

b. To provide information for clearances of employees who separate from the NRC; and

c. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on NRC forms and magnetic tape systems, with history and audit files.

RETRIEVABILITY:

Accessed by social security account number, office, and office location.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 3 years after an individual's responsibility for the assigned equipment terminates;

destroyed by regular trash disposal system or deleted from the data bank.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Property and Supply Branch, Division of Facilities and Operations Support, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from NRC forms signed by the individuals having custody of the items, or from reports and memoranda received by the Division of Facilities and Operations Support.

NRC-25

SYSTEM NAME:

Oral History Program—NRC.

SYSTEM LOCATION:

Office of the Secretary of the Commission, NRC, 1717 H Street, NW, Washington, DC 20555.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, former employees, and other individuals who volunteer to be interviewed for purpose of providing information for a history of the nuclear regulatory program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of interviews on magnetic tape, and transcribed scripts of the interviews.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2161b, 541(a)(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For incorporation in a future publication on the history of the nuclear regulatory program; and

b. To provide information to historians and other researchers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on magnetic tape and transcripts.

RETRIEVABILITY:

Information is accessed by the name of the interviewee.

SAFEGUARDS:

Maintained in locked file cabinet. Access to and use of these records are limited to those authorized by the Historian or a designee.

RETENTION AND DISPOSAL:

Transcripts are retained indefinitely. Tapes are normally retained until they are transcribed; some may be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

NRC Historian, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from interviews granted on a voluntary basis to the Historian and his/her staff.

NRC-26

[Revoked]

NRC-27

SYSTEM NAME:

Radiation Exposure Information and Reports System (REIRS) Files—NRC.

SYSTEM LOCATION:

Primary system—Union carbide Corporation, Industrial and Personnel Management Department, Computer Science Division, P.O. Box P, Oak Ridge, Tennessee 37830.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals monitored for radiation exposure while employed by or visiting or temporarily assigned to certain NRC licensed facilities; individuals who are exposed to radiation or radioactive materials in incidents required to be reported pursuant to 10 CFR 20.403 and 20.405 by all NRC licensees; individuals who may have been exposed to radiation or radioactive materials off-site from a facility, plant installation, or other place of use of licensed materials, or in unrestricted areas, as a result of an incident involving byproduct, source, or special nuclear material; as then required by NAVMED P-5055, Radiation Health Protection Manual, monitored individuals terminating their service with the Navy prior to 1977; and monitored employees of all the registrants of the State of Illinois prior to 1979.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to individual's name, sex, social security account number, date of birth, job category, period of employment, place and period date of exposure; name, address, and license number of individual's employer; licensee name and number reporting the incident; radiation doses or estimates of exposure received during this period, type of radiation, part(s) or organ(s) exposed, and nuclide(s) involved. Some reports will indicate whether the individual is a contractor or a utility employee. Between January 1972 and May 1974, the following information was also recorded for individuals over-exposed to radiation: sex, training experience, regular occupation of the exposed individuals; device or method used to determine dose(s); brief statement describing the incident and the causes; corrective actions taken; status of exposed individual (i.e., medical treatment); type, age, and manufacturer of malfunctioning equipment; and cumulative dose prior to incident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, and 2201(o) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide data to other Federal and state agencies involved in monitoring and/or evaluating radiation exposure received by individuals as enumerated in the paragraph "Categories of individuals covered by the system;" and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are computerized and maintained on magnetic tape, maintained in log books, and filed as either a computer printout or original paper document.

RETRIEVABILITY:

Records are accessed by individual name, social security account number, and by licensee name or number.

SAFEGUARDS:

Information maintained at the Computing Technology Center is accessible only to the division of Data Automation and Management Information, Office of Resource Magagement. Reports kept by the Division of Data Automation and Management Information are in file cabinets and bookcases in a secured building. A log is maintained of both telephone and written requests for information.

RETENTION AND DISPOSAL:

a. Original paper document—retained 2 years, destroyed by shredding;

b. Magnetic tape—retained permanently at Computing Technology Center;

c. Log books—retained indefinitely, no names;

d. Computer printouts—periodically updated, destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Data Automation and Management Information, Office of Resource Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the monitored worker, visitors, worker's employer, or the person in charge of the facility to which has been assigned.

NRC-28

SYSTEM NAME:

Recruiting, Examining and Placement Records–NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel, Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland. For Regional personnel, at each of the Regional offices listed in Addendum I, Part 2.

Dupicate system—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for Federal employment with the NRC under general announcement provisions.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain general application information relating to the education, training, employment history, earnings, past performance, criminal convictions, if any, written achievement tests, honors, awards, or fellowships, military service, veteran preference status, birth place, birth date, social security account number, and home address of persons who have applied for Federal employment with the NRC (SF–171, resumes and similar documents).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 161(d), Atomic Energy Act of 1954, 42 U.S.C. 2201(d) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information to agencies relative to transfer or consideration of employment; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained primarily on forms, list, and index cards in file folders. Also, certain data is maintained on magnetic tapes, disks, and punch cards.

RETRIEVABILITY:

Records are indexed by name and an identification number assigned to each individual.

SAFEGUARDS:

Maintained in unlicked file cabinet. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Register of Eligible Applications retained for 1 year from date of application or until no longer needed, then destroyed;

b. Index cards—retained from date application is placed in the review system, then destroyed when no longer needed; and

c. Other related recruitment and placement documents—destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Recruitment Branch, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosures would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as 'Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual, to whom it applies or is derived from information supplied by that individual, with the exception of reports from medical personnel on physical qualifications, results of examinations, preemployment evaluation data furnished by references and educational institutions whose names were supplied by applicant, and information from other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-29

SYSTEM NAME:

Document Control System—NRC.

SYSTEM LOCATION:

Primary system—Document Management Branch, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; the NRC Public Document Room (PDR), 1717 H Street, NW, Washington, DC; the NRC Local Public Document Rooms (LPDRs); and at the Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC staff, contractors, subcontractors, licensees, Congressional offices, and other correspondents with the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents both received by and originated by the NRC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 5841 (1976) and 44 U.S.C. 3101 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To refer, where appropriate, inquiries to Federal agencies or persons for their reply or action;

b. To provide information to persons or agencies requesting this information, including provision of Daily Accession Lists in the NRC PDR & LPDRs;

c. To prepare a monthly "Title List of Documents Made Publicly Available";

d. To serve as the NRC's official records for documents placed on the system; and

e. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on microfiche, disks, tapes, and paper in file folders. Proprietary and sensitive documents are maintained in secured facilities.

RETRIEVABILITY:

Accessed by name (author or recipient), corporate source, title of document, subject matter, or other identifying document or control number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Information not exempt from disclosure under the Freedom of Information Act (FOIA) will be publicly available in the NRC PDR and LPDRs.

RETENTION AND DISPOSAL:

Retention is for an indefinite period.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Technical Information and Document Control, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Information which is classified or otherwise exempt from public disclosure under the FOIA will not be disclosed.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the correspondence to and from the NRC, contractors, and NRC employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H) and (I), and (f). This exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-30

SYSTEM NAME:

Manpower System (MPS) Records—NRC.

SYSTEM LOCATION:

Primary system—NIH computer facility, c/o Division of Data Automation and Management Information, Office of Resource Management, NRC, 735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All NRC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to number of regular and nonregular hours worked, the nature of the work, and workload projections.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2201(p) (1976);

b. Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. As a project management tool in various management records throughout the NRC; and

b. For the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in computer files, computer records, on tapes, disks, cards, and microfiche.

RETRIEVABILITY:

Accessed by social security account number, project, program, or activity numbers; docket number, TACS, or PPSAS numbers.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained indefinitely in computer files.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Data Automation and Management Information, Office of Resource Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it pertains.

NRC-31

SYSTEM NAME:

Correspondence and Records Branch, Office of the Secretary—NRC.

SYSTEM LOCATION:

Office of the Secretary, Correspondence and Records Branch, NRC, 1717 H Street, NW., Washington, D.C. 20555.

Duplicate system—Duplicate system exists, in whole or in part, at the Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The majority of records in this system consist of internal NRC memoranda between NRC employees and the Chairman, a Commissioner, or the Secretary in the ordinary course of carrying out the official business of the NRC. Records also include correspondence from Members of Congress and their staffs including constituent referrals, and White House correspondence referred to the NRC for response. Correspondence may identify an individual's social security account number, date of birth, address, and employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information concerning all subjects which directly or indirectly relate to the fulfillment of NRC's statutory mandate. Records include information dealing with the policy, legal, administrative, and adjudicatory functions of the NRC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 5841 (1976) and 44 U.S.C. 3101 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Most records are accessed by subject matter headings and are not individually identifiable. Access to some correspondence by individual name is available through correspondence control documents.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Classified materials are maintained in approved safes, and unclassified records are maintained in rolling file equipment.

RETENTION AND DISPOSAL:

Retained indefinetely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Correspondence and Records Branch, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from communications to the Commission and responses thereto.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-32

SYSTEM NAME:

Source and Special Nuclear Material License Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2, and the NIH computer facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for and licensees under Source and Special Nuclear Materials licensing programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information contained in this system reflects data supplied by applicants and licensees and developed by the NRC staff in the license review and authorization process with respect to the possession and use of source and special nuclear material. System component records developed and maintained by the NRC staff also include summary and cross-indexing type data promoting quick access to and breakout of such license information as:

a. Alphabetical listing of active and inactive licenses and applicants for licenses arranged by state and by a master listing;

b. Cross indexes of names to assigned license numbers;

c. Dates of license issuance and expiration; and

d. Geographic location of licensees by state and town.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2073, 2093, 2095, 2201 (b), (i) and (o) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide records to state health departments for their information and use;

b. To provide information to other Federal, state, and local health officials in the event of incident or exposure, for purposes of their information, investigation, and protection of public health and safety;

c. To provide the Department of Energy with information concerning special nuclear material licenses for purposes of control-related transfers and safeguards accountability; and

d. For any of the routine uses specified in the Prefatory Statement.

Certain of the information provided in this category is routinely placed in the NRC Public Document Room.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper, index cards, logs, microfilm, and mag cards.

RETRIEVABILITY:

Indexed by applicant and licensee name in juxtaposition with assigned license number.

SAFEGUARDS:

Maintained in unlocked shelving units under control of supervisory personnel.

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are continuously computer updated as new information is developed or individual licenses are cancelled or terminated; license files are transferred annually to the NRC warehouse when they become inactive or are terminated, and retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Forms and information submitted by applicants and licensees; information developed by NRC personnel from such forms and information.

NRC-33

SYSTEM NAME:

Special Inquiry File NRC.

SYSTEM LOCATION:

Primary system—Special Inquiry Group, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate system—duplicate system exists, in whole or in part, at the Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals possessing information regarding or having knowledge of matters of potential or actual concern to the Commission in connection with the investigation of an accident or incident at a nuclear power plant or other nuclear facility, or an incident involving nuclear materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical index file bearing individual names. The index provides access to associated records which are arranged by subject matter, title, or identifying number(s) and/or letter(s). The system incorporates the records of all Commission correspondence, memoranda, audit reports and data, interviews, questionnaires, legal papers, exhibits, investigative reports and data, and other material relating to or developed as a result of the inquiry, study, or investigation of an accident or incident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(c), (i) and (o) (1976); 5841(f)(1974).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information relating to an item which has been referred to the Commission or Special Inquiry Group for investigation by an agency, group, organization, or individual may be disclosed as a routine use to notify the referring agency, group, organization, or individual of the status of the matter or of any decision or determination that has been made;

b. To disclose a record as a routine use to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

c. To provide records relating to the integrity and efficiency of the Commission's operations and management may be disseminated outside the Commission as part of the Commission's responsibility to inform the Congress and the public about Commission operations; and

d. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, and 6 of the prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on microfiche, disks, tapes, and paper in file folders. Documents are maintained in secured vault facilities.

RETRIEVABILITY:

Accessed by name (author or recipient), corporate source, title of document, subject matter, or other identifying document or control number.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or safes in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Retained and destroyed in accordance with approved records disposal schedules for the various types of records involved.

SYSTEM MANAGER(S) AND ADDRESS:

Records Manager, Special Inquiry Group, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Information classified pursuant to Executive Order 12356 will not be disclosed. Information received in confidence will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officers and employees; Federal, state, local, and foreign agencies; NRC licensees; nuclear reactor vendors and architectural engineering firms; other organizations or persons knowledgeable about the incident or activity under investigation; and relevant NRC records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d) (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-34

SYSTEM NAME:

Advisory Committee on Reactor Safeguards (ACRS) Correspondence Index and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Advisory Committee on Reactor Safeguards, NRC, 1717 H Street, NW, Washington, DC.

Duplicate system—duplicate system exists, in whole or in part, at the NIH computer facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons providing information to or requesting information from the ACRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to incoming requests and correspondence from individuals and replies thereto and a listing of technical information by authors' names.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Indexing is maintained on computer tapes and disks and individual materials are located in ACRS files.

RETRIEVABILITY:

Indexed by one or more of the following categories: author and addressee's name, subject title using the Key Word Out of Context (KWOC) index and issuing organization or agency.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Technical Information Branch, Advisory Committee on Reactor Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Records contain information prepared by private individuals or organizations, government agencies and their contractors, companies, and other groups such as the American National Standards Institute (ANSI)

NRC-35 [Revoked]

NRC-36

SYSTEM NAME:

Employee Locator Records Files—NRC.

SYSTEM LOCATION:

Primary system—Telecommunications Branch, Division of Facilities and Operations Support, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to name, address (home and business), telephone numbers (home and business), organization, persons to be notified in case of emergency and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for the routine use specified in paragraph number 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on index cards.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in controlled access room under 24-hour visual control of NRC operators. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until 6 months after association with NRC is discontinued, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Telecommunications Branch, Division of Facilities and Operations Support, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, general personnel records, and other related records.

NRC-37

SYSTEM NAME:

Information Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Security, Office of Administration, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; and at the NIH computer facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including present or former NRC employees, contractors, consultants and licensees; other government agency personnel; and other cleared persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding:

a. Personnel who are authorized access to specified levels, categories and types of information, the approving authority, and related documents; and

b. Individuals who originate classified documents as well as identifying information about the document.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2165 and 2201(i) (1976);

b. Executive Order 12356, April 2, 1982.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be used:

a. To provide information relating to the control of classified information and material to the Information Security Oversight Office, Department of Defense, Department of Energy

(computer input) and other government agencies; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained primarily in file folders, on magnetic tape, disk packs, and index cards.

RETRIEVABILITY:

Indexed and accessible by name and/or assigned number.

SAFEGUARDS:

Maintained in locked buildings, containers, or security areas under guard and/or alarm protection, as appropriate.

RETENTION AND DISPOSAL:

a. Classified documents, administrative correspondence, document receipts, destruction certificates, classified document inventories, and related records—retained 2 years, then destroyed by shredding;

b. Top Secret Accounting and Control files—registers: retained 5 years after documents shown on form are downgraded, transferred, or destroyed; accompanying forms: retained until related document is downgraded, transferred, or destroyed. Destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Persons, including NRC employees, contractors, consultants, and licensees as well as information furnished by other government agencies or their contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of NRC regulations.

NRC-38

SYSTEM NAME:

Mailing Lists—NRC.

SYSTEM LOCATION:

Primary System—Contractor Site, 7300 Pearl Street, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals with an interest in receiving information from the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Mailing lists include primarily the individual's name and address. Some lists also include title, occupation, and institutional affiliation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For distribution of documents to persons and organizations listed on the mailing lists; and

b. For the routine use specified in paragraph number 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETIREVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in card files, index cards, address plates, magnetic cards, punch cards, cassettes and magnetic tape.

RETRIEVABILITY:

Filed alphabetically by company name and then individual name, where possible.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Documents requesting changes retained 3 months, destroyed through regular trash disposal system; lists retained until cancelled or revised, destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Technical Information and Document Control, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC licensees and individuals expressing an interest in NRC activities and publications.

NRC-39

SYSTEM NAME:

Personnel Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Security, Office of Administration, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; the Department of Energy, Administration and Century XXI Buildings, Germantown, Maryland; and the NIH computer facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including NRC employees, employment applicants, consultants, contractors, and licensees; other government agency personnel (e.g., General Services Administration personnel); other persons who have been considered for a personnel clearance; aliens who visit at NRC's facilities; and actual or suspected violators of laws administered by NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Include information relating to personnel, including name, address, date and place of birth, social security account number, citizenship, residence history, employment history, foreign travel, education, personal references, organizational membership and security clearance history. These records also contain copies of investigative reports from other agencies (primarily from the Office of Personnel Management or the Federal Bureau of Investigation),

summaries of investigative reports, results of Federal agency indices checks, reports of personnel security interviews, clearance actions information (e.g., grants and terminations), violations of laws, reports of security infractions, "Request for Visit or Access Approval" (Form NRC–277), and other related personnel security processing documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2165 and 2201(i) (1976);
b. Executive Order 12356, April 2, 1982;
c. Executive Order 10865, February 20, 1960;
d. Executive Order 10450, April 27, 1953.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used by the Division of Security and on a need-to-know basis by appropriate NRC officials, Personnel Security Board Members or Personnel Security Review Board Members, Office of Personnel Management, Federal Bureau of Investigation, and other Federal agencies:

a. To determine clearance eligibility;
b. To certify clearances;
c. To maintain the NRC personnel security program; and
d. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained primarily in file folders, on magnetic tape, disk packs, and index cards.

RETRIEVABILITY:

Indexed and accessible by name, social security account number, or case file number of a combination thereof.

SAFEGUARDS:

File folders and computer printouts are maintained in security or controlled areas under guard and/or alarm protection as appropriate.

RETENTION AND DISPOSAL:

a. Personnel security clearance files—retained 5 years after date of last action, then transferred for more permanent storage and may be destroyed by shredding 20 years after date of last action;

b. Request for Visit or Access Approval—Maximum security areas: retained 5 years after final entry or after date of document as appropriate; other areas: retained 2 years after final entry or after date of document; destroyed by shredding; and

c. Other security clearance administration files—retained 2 years after final entry or after date of document; destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Persons including NRC applicants, employees, contractors, consultants, licensees, and visitors as well as information furnished by other government agencies or their contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(1), (k)(2), and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 55a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–40

SYSTEM NAME:

Facility Security Support Files and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Security, Office of Administration, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate systems—duplicate systems exist, in whole or part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including present or former NRC employees, consultants, contractors, and licensees; other government agency personnel; and actual and suspected violators of laws relating to the NRC's activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding NRC, NRC contractor, and NRC licensee facilities, security programs and associated records; individuals visiting NRC facilities; NRC employees and NRC related identification files maintained for access purposes; actual or suspected violations of laws of security interest administered by NRC, including copies of investigative reports from other government agencies; records of individuals' firearms qualification scores including the accountability of firearms; and other documents relating to the safeguards of National Security Information (NSI) and Restricted Data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2165 and 2201 (j), (k), and (p) (1976);
b. Executive Order 12356, April 2, 1982.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be used:

a. To provide licensees and contractors with the information necessary to maintain an adequate security program; and
b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on related forms.

RETRIEVABILITY:

Indexed and accessible by name, facility, badge number, identification card number, chronologically, or a combination thereof.

SAFEGUARDS:

Maintained in security containers or security areas under guard and/or alarm protection, as appropriate.

RETENTION AND DISPOSAL:

a. Survey and inspection files and records pertaining to NRC, NRC contractors, and NRC licensees, facilities security programs—Government-owned facilities: retained 3 years, or until discontinuance of facility, whichever is sooner; privately owned facilities: retained 4 years or until security cognizance is terminated,

whichever is sooner; destroyed by shredding or pulping;

b. Facility visitor records—Maximum security areas: retained 5 years after final entry or after date of documents, as appropriate; other areas: retained 2 years after date of document; destroyed by shredding or pulping;

c. NRC employee and NRC-related identification files—retained 2 years following employee's termination; destroyed by shredding or pulping;

d. Security interest violation and investigative report files—retained indefinitely;

e. Firearms qualification scores and accountability—retained 2 years from date of document; destroyed by shredding or pulping; and

f. Other documents relating to NSI and Restricted Data safeguards and other security and protective service files—retained 2 years from date of document; destroyed by shredding or pulping.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Persons including NRC employees, contractors, consultants, licensees, and visitors as well as information furnished by other government agencies or their contractors.

SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5) and (6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

Addendum I—List of U.S. Nuclear Regulatory Commission Locations

Part 1—NRC Headquarters Offices

a. Willste Building, 7915 Eastern Avenue, Silver Spring, Maryland.

b. East-West Towers Building, 4340 East-West Highway, Bethesda, Maryland.

c. East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

d. Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland.

e. Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland.

f. Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland.

g. Nicholson Lane Building, 5650 Nicholson Lane, Rockville, Maryland.

h. Matomic Building, 1717 H Street, NW, Washington, DC

i. Air Rights III Building, 4550 Montgomery Avenue, Bethesda, Maryland.

Part 2—NRC Regional Offices

a. NRC Region I, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

b. NRC Region II, 101 Marietta Street, Suite 3100, Atlanta, Georgia 30303.

c. NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

d. NRC Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011.

e. NRC Region IV Uranium Recovery Field Office, 730 Simms Street, P.O. Box 25325, Denver, CO 80225.

f. NRC Region V, 1450 Maria Lane, Suite 210, Walnut Creek, California 94596.

Dated at Bethesda this 27th day of September 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-26994 Filed 9-29-82; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. A82-16; Order No. 447]

Tomnolen, Mississippi (39770); Marjorie T. Fox, et al., Petitioners; Notice and Order of Filing of Appeal

September 27, 1982.

On September 20, 1982, the Commission received an appeal letter from Mrs. Marjorie T. Fox and others (hereinafter "Petitioners"), concerning the United States Postal Service's decision to close the Tomnolen, Mississippi, post office. The appeal letter cites several adverse effects which the closing would have on the community and on postal services. The appeal letter appears to request the review provided for by section 404(b) of the Postal Reorganization Act [39 U.S.C. 404(b)][1]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "ensure that such persons will have an opportunity to present their views."[2] The petition requests that the decision to close the Tomnolen post office be reconsidered:

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal service be insured to residents of both urban and rural communities.[3]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the closing of post offices.[4]

Upon preliminary inspection, this case appears to involve the following issues of law:

1. Whether the Postal Service's actions are consistent with the statutory requirement that the Postal Service provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining [39 U.S.C. 404(b)(2)(C)].

2. Whether the Postal Service adequately considered the effect on the community in accordance with 39 U.S.C. 404(b)(2)(A).

Other issues of law may become apparent when the Commission has had the opportunity to examine further the determination made by the Postal Service. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above and/

[1] 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 39 U.S.C. 404(b)(1)

[3] 39 U.S.C. 101(b).

[4] 42 FR 59070-85 (November 17, 1977). The Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be filed within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioners by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecurtion, in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases,[5] and none is being appointed. The Commission orders:

(A) The appeal letters from Marjorie T. Fox and other users of the Tomnolen post office be accepted as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)]

(B) T he Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

By the Commission.

Cyril J. Pittack,

Acting Secretary.

September 20, 1982—Filing of Petition
September 27, 1982—Notice and Order of Filing of Appeal
October 5, 1982—Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].
October 11, 1982—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
October 20, 1982—Petitioners' Initial Brief [*see* 39 CFR 3001.115(a)].
November 4, 1982—Postal Service Answering Brief [*see* 39 CFR 3001.115(b)].
November 19, 1982—(1) Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 3001.115(c)]. (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.
January 19, 1983—Expiration of 120 day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 82-27016 Filed 9-29-82; 8:45 am]

BILLING CODE 7715-01-M

[5] In the Matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

SMALL BUSINESS ADMINISTRATION

Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Sioux Falls, South Dakota, will hold a public meeting on Tuesday, October 5, 1982, from 9:00 a.m. to 3:00 p.m., at the Community Room, First National Bank in Sioux Falls, 100 South Phillips, Sioux Falls, South Dakota 57102, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Chester B. Leedom, District Director, U.S. Small Business Administration, Suite 101, Security Building, 101 South Main, Sioux Falls, South Dakota 57102, 605/336-2980, Ext. 231.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 27, 1982.

[FR Doc. 82-27008 Filed 9-29-82; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council; Meeting

The U.S. Small Business Administration Region VIII Advisory Council, located in the geographical area of Salt Lake City will hold a public meeting at 9:00 a.m. on Tuesday, October 15, 1982, at the Utah First Bank, 2 South Main Street, Salt Lake City, Utah, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call R. Kent Moon, District Director, U.S. Small Business Administration, 125 South State Street, Salt Lake City, Utah, (801) 524-5800.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 27, 1982.

[FR Doc. 82-27009 Filed 9-29-82; 8:45 am]

BILLING CODE 8025-01-M

Region X Advisory Council; Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Boise, Idaho, will hold a public meeting at 9:30 a.m., Monday, October 18, 1982, at the Owyhee Plaza "Gold Room", 1109 Main Street, Boise, Idaho, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Verne A. Leighton, District Director, U.S. Small Business Administration, 1005 Main Street, Boise, Idaho, (208) 334-1096.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 27, 1982.

[FR Doc. 82-27007 Filed 9-29-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 825]

Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice No. 655 (44 FR 17846), March 23, 1979, the Department is submitting its April, May, June, July, & August 1982 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article III (c) (5) of the guidelines published in the **Federal Register** on March 23, 1979.

H. D. Shishkin,

Deputy Director, Office of International Conferences.

September 9, 1982.

United States Delegation to the Eleventh Session of the Third United Nations Law of the Sea Conference, New York, March 8 to April 30, 1982

Representatives

The Honorable James L. Malone (Chairman of Delegation), Special Representative of the President for the Law of the Sea Conference
Harry R. Marshall, Jr. (Senior Vice Chairman of Delegation), Deputy Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Leigh S. Ratiner (Counselor to the Chairman), Dickstein, Shapiro and Morin, Washington, D.C.
Otho E. Eskin (Vice Chairman of Delegation), Bureau of Oceans and International Environmental and Scientifc Affairs, Department of State
Thomas A. Clingan, Jr. (Vice Chairman of Delegation), Professor of Law, University of Miami
Davis Robinson (Vice Chairman of Delegation), Legal Adviser, Department of State

Deputy Representatives

Lance Antrim, Policy Division, Department of Commerce
Douglas Bandow, Special Assistant to the President, White House
Lewis Cohen, Bureau of Economic and Business Affairs, Department of State
Donald Crafts, Office of Raw Materials and Ocean Policy, Department of the Treasury
James B. Ellis, Commander, USCG, Secretarial Representative to the Law of

the Sea Conference, Department of Transportation
Bruce Harlow, Rear Admiral, USN, Acting Representative to the Law of the Sea Conference for the Department of Defense
Alex Holser, Office of the Assistant Secretary for Energy, Department of the Interior
Mary Ann Mason, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Elizabeth Verville, Office of the Legal Adviser, Department of State

Senior Advisers

Elliot L. Richardson, Public Chairman of the Advisory Committee on the Law of the Sea Conference
Bernard H. Oxman, Professor of Law, University of Miami

Advisers

Steven Asher, Office of the Legal Adviser, Department of State
Robert C. Blumberg, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Milton Drucker, Bureau of Economic and Business Affairs, Department of State
Andrew Durham, Commander, USN, JCS Maritime Division, Department of Defense
Richard Haddad, Office of the Secretary of Defense, Department of Defense
Robert Keating, Adviser, Department of Defense
John Lockwood, Commander, USCG, United States Mission to the United Nations
Charles Meacham, Office of the Governor, Alaska
Sally A. Meese, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Julie L. Reardon, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
William L. Schachte, Jr., Commander, USN, Office of the Secretary, Department of Defense

Experts

Gordon L. Becker, Exxon Corporation, New York, New York
Homer Blair, ITEK Corporation, Lexington, Massachusetts
Marne Dubs, Kennecott Corporation, Stamford, Connecticut
William J. Coffey, Sea Lands Service, Inc., Edison, New Jersey
Robert B. Krueger, Nossman, Kruegar and Marsh, Los Angeles, California
Max K. Morris, Rear Admiral (Retired), Thalassa Research, Inc., Jacksonville, Florida
John A. Redding, Continental Illinois National Bank, Chicago, Illinois
Lee J. Weddig, National Fisheries Institute, Washington, D.C.
George Witney, Brumberg, Graves, Donohue and Raymond, New York, New York
Anita Yurchyshyn, Chairman, Marine Environment Program, Sierra Club, Boston, Massachusetts

United States Delegation to the International Tin Council, London, April 19–23, 1982

Representative

Gregory Christopolous, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representatives

William Sugg, Office of Commodity Policy, Department of Commerce
David Wilson, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State

Adviser

Paul Pilkauskas, United States Embassy, London

Private Sector Advisers

Gerald Houck, American Iron and Steel Institute, Washington, D.C.
Malcolm W. Owings, Vice President, Continental Can Company, Chicago, Illinois

United States Delegation to the 19th Meeting of the North Atlantic Systems Planning Group of the International Civil Aviation Organization (ICAO) Paris, April 19–30, 1982

Representative

John Matt, Office of International Aviation, Federal Aviation Administration

Advisers

Allen C. Busch, Technical Center, Federal Aviation Administration, Atlantic City, New Jersey
Nicholas M. Craddock, Air Traffic Service, Federal Aviation Administration
Jerald Davis, Office of Flight Operations, Federal Aviation Administration
Howard Rubenstein, Air Traffic Service, Federal Aviation Administration, New York, New York

Private Sector Advisers

Richard Covell, Aeronautical Radio Incorporated, Annapolis, Maryland

United States Delegation to the Commission for Climatology and Applications of Meteorology (CCAM), World Meteorological Organization (WMO), Washington, D.C., April 19–30, 1982

Principal Delegate

James L. Rasmussen, Director, Climate Analysis Center, National Meteorological Center, National Weather Service, National Oceanic and Atmospheric Administration, Department of Commerce

Alternate Principal Delegate

Frank T. Quinlan, Chief, Climatological Analysis Division, National Climatic Center, National Oceanic and Atmospheric Administration, Asheville, North Carolina

Delegates

Patrick J. Breitling, Air Weather Service, United States Air Force, Scott Air Force Base, Illinois
Alan D. Hecht, National Climate Program, National Oceanic and Atmospheric Administration, Department of Commerce
William T. Sommers, Forest Fire and Atmospheric Sciences Research, Forest Service, Department of Agriculture
Edward V. Tiernan, Environmental Data and Information Service, National Oceanic and Atmospheric Administration, Department of Commerce

Private Sector Adviser

Bernard Dethier, Department of Agronomy, Atmospheric Sciences, Cornell University, Ithaca, New York

United States Delegation to the 9th Session of the Administrative and Legal Committee, 25th Session of the Consultative Committee and the 5th Extraordinary Session of the Council of the International Union for the Protection of New Varieties of Plants (UPOVP) Geneva, April 26–29, 1982

Representative

Stanley D. Schlosser, Office of Legislation and International Affairs, Patent and Trademark Office, Department of Commerce

Private Sector Adviser

Leo Donahue, National Association of Plant Patent Owners, Washington, D.C.

United States Delegation to the Eighth Session of the Group of Experts on Standardization, Economic Commission for Europe (ECE), Geneva, April 26–30, 1982

Representative

Stanley I. Warshaw, Director, Office of Engineering Standards, National Bureau of Standards, Department of Commerce

Adviser

Allen J. Farrar, Legal Adviser, National Bureau of Standards, Department of Commerce

Private Sector Adviser

Donald Fleckenstein, American National Standards Institute, New York, New York

United States Delegation to the Fifteenth Session of the Subcommittee on Standards of Training and Watchkeeping, Intergovernmental Maritime Consultative Organization, London, April 26–30, 1981

Representative

Richard A. Sutherland, Captain, USCG, Chief, Merchant Vessel Personnel Division, United States Coast Guard, Department of Transportation

Alternate Representative

John J. Hartke, III, Chief, Great Lakes Pilotage Branch, United States Coast Guard, Department of Transportation

Adviser

Arthur W. Friedberg, Director, Office of Maritime Labor and Training, Maritime Administration, Department of Commerce

Private Sector Advisers

John Fay, Seafarers International Union of North America, AFL–CIO, New York, New York
Paul M. Hammer, American Institute of Merchant Shipping, Washington, D.C.

William A. Mayberry, Captain, USCG (Ret.), Offshore Maritime Services Association, New Orleans, Louisiana
William L. Rich, Jr., International Organization of Masters, Mates and Pilots, AFL–CIO, New York, New York

United States Delegation to the Executive Board, International Coffee Organization, London, May 4–14, 1982

Representative

Rollinde Prager, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representative

Paul Pilkauskas, United States Embassy, London

Advisors

Ralph Ives, Office of International Resources, Department of Commerce
James Woolwine, Office of Tropical Products, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisors

John Buckley, The Nestle Company, White Plains, New York
Kenneth Dunnivant, The Folger Coffee Company, Cincinnati, Ohio

United States Delegation to the Meeting of Working Parties 1, 2, and 4 of Study Group VIII, International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, May 5–14, 1982

Representative

Neil Seitz, National Telecommunications and Information Administration, U.S. Department of Commerce, Boulder, Colorado

Private Sector Advisers

Marshall Cain, National Communications System, Arlington, Virginia
Claude C. Kleckner, American Telephone and Telegraph, Basking Ridge, New Jersey

United States Delegation to the 10th Session of the Subcommittee on Bulk Chemicals, Intergovernmental Maritime Consultative Organization (IMCO), London, May 10–14, 1982

Representative

Frits Wybenga, Cargo and Hazardous Materials Division, United States Coast Guard, Department of Transportation

Alternate Representative

Emmanuel P. Pfersich, Cargo and Hazardous Materials Division, United States Coast Guard, Department of Transportation

Advisers

John W. Gormanson, LCDR, Cargo and Hazardous Materials Division, United States Coast Guard, Department of Transportation
John F. McGowan, LCDR, Merchant Marine Technical Division, United States Coast Guard, Department of Transportation
Michael D. Morrissette, Cargo and Hazardous Materials Division, United States Coast Guard, Department of Transportation

Private Sector Advisers

Robert H. Conn, Jr., American Institute of Merchant Shipping, Washington, D.C.
Frederick R. Adamchak, Marathon Oil Company, Findlay, Ohio

United States Delegation to the United Nations Environmental Program Session of Special Character, Nairobi, May 10–18, 1982

Representatives

The Honorable James L. Buckley, Under Secretary of State for Security Assistance, Science and Technology, Department of State
The Honorable Anne M. Gorsuch, Administrator Environmental Protection Agency
The Honorable A. Alan Hill, Chairman, Council on Environmental Quality

Alternate Representative

The Honorable William C. Harrop, Ambassador, United States Embassy, Nairobi

Senior Adviser

The Honorable G. Ray Arnett, Assistant Secretary of the Interior for Fish and Wildlife and Parks, Department of the Interior

Advisers

Gordon S. Brown, Director, Office of Technical Specialized Agencies, Bureau of International Organization Affairs, Department of State
Paul Cahill, Director, Office of Federal Activities, Environmental Protection Agency
Jacques J. Gorlin, Senior Adviser to the Administrator, Agency for International Development
Bill L. Long, Deputy Director, Office of Environment and Health, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Coleman J. Nee, U.S. Permanent Representative to UNEP, United States Embassy, Nairobi

Private Sector Advisers

Archibald E. Hanson, Jr., Hanson Enterprises, Inc., Paso Robles, California
Russell E. Train, President, World Wildlife Fund, Washington, D.C.

United States Delegation to the Committee on the Challenges of Modern Society (CCMS), North Atlantic Treaty Organization (NATO), Brussels, May 11–12, 1982

Representative

The Honorable George A. Keyworth, II, Science Adviser to the President and Director, Office of Science and Technology Policy, Executive Office of the President

Alternate Representative

The Honorable W. Tapley Bennett, Jr., Permanent Representative of the United States to the North Atlantic Council

Senior Adviser

John Marcum, Assistant Director, Office of Science and Technology Policy, Executive Office of the President

Advisers

Margaret E. Brown, U.S. Coordinator for NATO/CCMS Activities, Environmental Protection Agency
Tudor Davies, Director, Environmental Research Laboratory, Environmental Protection Agency, Narragansett, Rhode Island
William R. Gemma, Associate Administrator for International Health Affairs, Health Services Administration, Department of Health and Human Services
Stephen Klemp, CCMS Officer, Bureau of European Affairs, Department of State
Harry M. Montgomery, Jr., Economic Adviser, U.S. Mission to NATO
Richard F. Walsh, Director, Office of Economics and Public Investment, Department of Transportation
Patricia A. Woodring, CCMS Officer, U.S. Mission to NATO, Brussels

Private Sector Adviser

James Curtis Mack, Santa Monica, California

United States Delegation to the Intergovernmental Group on Bananas, 8th Session Food and Agriculture Organization (FAO) Rome, May 17–21, 1982

Representative

James Woolwine, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State

Alternate Representative

Avram E. Guroff, Office of FAO Affairs, United States Embassy, Rome

Private Sector Advisers

Samuel Gordon, President, Del Monte Banana Company, Miami
Floyd F. Hedlund, Consultant, Washington, D.C.

United States Delegation to the First Meeting of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) Hobart, Tasmania, May 25–June 11, 1982

Representative

R. Tucker Scully, Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Advisers

Robert Hofman, Senior Scientific Adviser, Marine Mammal Commission
Mary M. McLeod, Office of the Legal Adviser, Department of State
Alan Ryan, Office of International Fisheries Affairs, National Marine Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce

Private sector Adviser

William Y. Brown, Environmental Defense Fund, Washington, D.C.

United States Delegation to the Meeting of Study Group III of the International Telegraphic and Telephone Consultative Committee (CCITT) International Telecommunciation Union (ITU) Geneva, June 7–23, 1982

Representative

Earl S. Barbely, Federal Communications Commission, Washington, D.C.

Private Sector Members

John C. Cahill, TRT Telecommunications Corp., Washington, D.C.
John H. Klotsche, RCA Globcom, New York, New York
Wendell E. Lind, AT&T, Somerset, New Jersey
Dennis Mitrano, ComSat, Washington, D.C.
John J. O'Boyle, ITT Worldcom, New York, New York
Phillip C. Onstad, Control Data Corporation, Greenwich, Connecticut
Denis W. O' Shea, IBM, Armonk, New York
Louis P. Peterec, Western Union International, New York, New York
Beverly Sincavage, GTE Telent, Vienna, Virginia
Frederick W. Voege, Western Union Telegraph Co., New York, New York
Kathleen White, Citibank Corporation, New York, New York

United States Delegation to the Special Meeting on Antarctic Mineral Resources, Wellington, New Zealand, June 11–25, 1982

Representative

R. Tucker Scully, Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Advisers

John Behrendt, United States Geological Survey, Denver, Colorado
Michael Danaher, Office of the Legal Adviser, Department of State
John Dugger, International Affairs, Department of Energy
Douglas Hengel, Office of Marine and Polar Minerals, Bureau of Economic and Business Affairs, Department of State
Robert Hofman, Scientific Program Director, Marine Mammal Commission
Thomas Laughlin; Office of Policy and Planning, National Oceanic and Atmospheric Administration, Department of Commerce

Private Sector Advisers

Lee Kimball, Citizens for Ocean Law, Washington, D.C.
Robert Rutford, President, University of Texas, Dallas, Texas

United States Delegation to the Committee on Commodity Problems, Intergovernmental Group on Hard Fibers, Food and Agriculture Organization (FAO), Rome, June 14–18, 1982

Representative

Michael D. Metelits, Office of FAO Affairs, United States Embassy, Rome

Private Sector Adviser

Loyal W. Leitgen, Manager Twine Department, Universal Cooperatives, Inc., Minneapolis, Minnesota

United States Delegation to the United Nations Advisory Committee on International Youth Year (Second Session), Vienna, June 14–23, 1982

Representative

James D. Phillips, Director, Office of Communications and UNESCO Affairs, Bureau of International Organization Affairs, Department of State

Alternate Representative

Carol A. Colloton, U.S. Mission to UNIDO, Vienna

Private Sector Adviser

Dr. Roy Godson, National Strategy Information Center, Inc., Washington, D.C.

United States Delegation to the International Coffee Organization Council, London, June 14–25, 1982

Representative

Rollinde Prager, Office of the U.S. Trade Representative, Executive Office of the President

Alternative Representative

Paul Pilkauskas, United States Embassy, London

Advisers

Ralph Ives, Office of International Resources, Department of Commerce
Irving Williamson, Office of the U.S. Trade Representative, Executive Office of the President
James Woolwine, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers (June 14–19)

George E. Boecklin, President, National Coffee Association, New York, New York
Alfred Hufman, Douwe-Ecoberts Superior Company, Bensenville, Illinois
Paul J. Keating, Director, General Foods Corporation, New York, New York
Marvin H. Schur, President, J. Aron & Company, New York, New York

Private Sector Advisers (June 21–25)

John C. Buckley, The Nestle Company, White Plains, New York
John Heuman, Dine-Mor Foods, Inc., Chicago, Illinois
Andrew Schultz, Schultz & Company, New York, New York
H. Grady Tiller, Coca-Cola Company, Foods Division, Houston, Texas

Consumer Adviser

Joanna Moss, Public Interest Economics Foundation, Berkeley, California

United States Delegation to the 25th Session of the Subcommittee on Ship Design and Equipment Intergovernmental Maritime Organization (IMO), London, June 28–July 2, 1982

Representative

Richard L. Brown, Captain, USCG, Deputy Chief, Office of Marine Environment and Systems, United States Coast Guard, Department of Transportation

Alternative Representative

A. E. Henn, Captain, USCG, Chief, Marine Technical and Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Advisors

James C. Card, Commander, USCG, Marine Technical and Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation
John C. Maxham, Commander, USCG, Marine Technical and Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Private Sector Advisors

Harris Knecht, Manager, Marine Systems, Zapata Offshore, Houston, Texas
William A. Mayberry, Captain, USCG (Ret.), Executive Director, Offshore Marine Service Association, New Orleans, Louisiana

United States Delegation to the International Wheat Council and Food Aid Committee, London, June 28–July 2, 1982

1. International Wheat Council, June 28–30:

Representative

James V. Parker, Grain and Feed Division, Foreign Agricultural Service, Department of Agriculture

Alternate Representative

Donald F. Hart, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State

Advisors

Frank C. Coolidge, Assistant Agricultural Attache, United States Embassy, London
Turner Oyloe, Agricultural Counsellor, United States Embassy, London

Private Sector Advisor

Timothy Oveat, U.S. Wheat Associates, Washington, D.C.

2. Food Aid Committee, July 1–2:

Representative

Donald F. Hart, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State

Alternate Representative

Michael Goldman, Food Program Division, Bureau of Economic and Business Affairs, Department of State

James V. Parker, Grain and Feed Division, Foreign Agricultural Service, Department of Agriculture

Advisors

Frank C. Coolidge, Assistant Agricultural Attache, United States Embassy, London
Turner Oyloe, Agricultural Counsellor, United States Embassy, London

United States Delegation to the International Whaling Commission (IWC) and Associated Meetings 34th Annual Meeting Brighton, England, July 12–24, 1982

Representative

The Honorable, John R. Byrne, U.S. Commissioner, Administrator, National Oceanic and Atmospheric Administration

Alternate Representative

The Honorable, Thomas Garrett, Deputy U.S. Commissioner, Garrett, Wyoming

Congressional Adviser

The Honorable, Ted Stevens, United States Senate

Congressional Staff Adviser

William Phillips, Legislative Assistant to Senator Stevens

Advisers

Douglas Chapman, Chairman, Marine Mammal Commission
Anne Crichton, Office of the Solicitor, Department of the Interior
Robert Eisenbud, General Counsel, Marine Mammal Commission
Claudia Kendrew, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Joan Mackenzie, Office of the General Counsel, Department of Commerce
Robert J. McManus, General Counsel, National Oceanic and Atmospheric Administration
Barbara Moore, Office of the Administrator, National Oceanic and Atmospheric Administrator
R. Tucker Scully, Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Dean Swanson, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration
Michael F. Tillman, National Maritime Mammal Laboratory, National Marine Fisheries Service, National Oceanic and Atmospheric Administration

Private Sector Advisers

Marie Adams, Executive Director, Alaska Eskimo Whaling Commission
Richard Ellis, National Audubon Society
Maxine McCloskey, Executive Director, The Whale Center
Phoebe Wray, Executive Director, Center for Action on Endangered Species

United States Delegation to the Steel Committee, Working Party Organization for Economic Cooperation and Development (OECD) Paris, July 19–20, 1982

Representative

J. D. Darroch, Director, Office of Basic Industries, Department of Commerce

Advisers

Jorge Perez Lopez, Bureau of International Labor Affairs, Department of Labor
Paul H. Tyson, Office of Regional Political-Economic Affairs, Bureau of European Affairs, Department of State

Private Sector Advisers

Frank Fenton, Vice President, American Iron and Steel Institute, Washington, D.C.
David Hawley, Director, Government Relations, Inland Steel Corporation, Chicago, Illinois
Jack Sheehan, Director, Legislative Department, United Steelworkers of America, Washington, D.C.

United States Delegation to the UN Commission on International Trade Law (UNCITRAL) 15th Session, New York, July 26–August 6, 1982

Representative

Peter H. Pfund, Office of the Legal Adviser, Department of State

Alternate Representative

Robert Rosenstock, United States Mission to the United Nations

Advisers

Michael F. Hoellering, General Counsel, American Arbitration Association, New York, New York
Paul Larsen, Office of the General Counsel, Department of Transportation
Joseph Perillo, Professor, Fordham University Law School, New York, New York
Joseph C. Sweeney, Professor, Fordham University Law School, New York, New York

Public Sector Adviser

John A. Spanogle, Jr., State University of New York School of Law, Buffalo, New York

UNITED STATES DELEGATION TO THE UN WORLD ASSEMBLY ON AGING VIENNA, JULY 26–AUGUST 6, 1982

Representative

The Honorable, Richard S. Schweiker, Secretary of Health and Human Services

Alternate Representatives

The Honorable, Dorcas R. Hardy, Assistant Secretary for Human Development Services, Department of Health and Human Services
The Honorable, Virginia Knauer, Special Assistant to the President, The White House
The Honorable, C. Everett Koop, M.D., Surgeon General of the United States, Department of Health and Human Services
The Honorable, John W. McDonald, Jr., Ambassador, Coordinator for World Assembly on Aging, Department of State
The Honorable, Lennie-Marie Tolliver, M.D., U.S. Commissioner on Aging, Department of Health and Human Services

Senior Advisers

The Honorable, Adelaide Attard, Chairman, Federal Council on the Aging, Department of Health and Human Services
The Honorable, Roger Kirk, Ambassador, U.S. Permanent Representative to UNIDO Vienna

Congressional Advisers

The Honorable, Henry J. Heinz, III, United States Senate
The Honorable, David H. Pryor, United States Senate
The Honorable, Mario Biaggi, U.S. House of Representatives
The Honorable, Robert K. Dornan, U.S. House of Representatives
The Honorable, Claude Pepper, U.S. House of Representatives
The Honorable, Jake Pickle, U.S. House of Representatives
The Honorable, Matthew Rinaldo, U.S. House of Representatives

Congressional Staff Advisers

Robert B. Blancato, Select Committee on Aging, U.S. House of Representatives
Charles Edwards, Staff Director, Select Committee on Aging, U.S. House of Representatives
John C. Rother, Staff Director, Special Committee on Aging, U.S. Senate

Advisers

Jean Bergaust, Department of Health and Human Services
Carol J. Fraser, Special Assistant to the Assistant Secretary, for Human Development, Department of Health and Human Services
Brewster R. Hemenway, Alternate U.S. Representative to UNIDO, Vienna
David Hohman, Office of International Affairs, Department of Health and Human Services
Ellen Sehgal, Office of Research and Development, Department of Labor

Private Sector Advisers

Constance Armitage, Chairman, 1981 White House Conference on Aging, Inam, South Carolina
Morrison H. Beach, West Hartford, Connecticut
Cyril F. Brickfield, Executive Director, American Association of Retired Persons, Washington, D.C.
Eleanor Cain, National Association of State Units on Aging, Washington, D.C.
Curt Clinkscales, National Alliance of Senior Citizens, Falls Church, Virginia
George Telisman, President, National Association of Area Agencies on Aging, Washington, D.C.

United States Delegation to the Group of Experts on Explosives 22nd Session Economic and Social Council (ECOSOC) Geneva, August 2–6, 1982

Representative

Alan I. Roberts, Associate Director for Hazardous Materials Regulation, Research and Special Programs Administration, Department of Transportation

Alternate Representative

Edward A. Altemos, Office of Hazardous Materials Regulation, Research and Special Programs Administration, Department of Transportation

Advisers

Charles W. Schultz, Office of Hazardous Materials Regulation, Research and Special Programs Administration, Department of Transportation
Richard W. Watson, Pittsburgh Explosives Laboratory, Bureau of Mines, Department of the Interior

Private Sector Advisers

Clyde W. Eilo, Institute of Makers of Explosives, New York, New York
Albert B. Opperman, Institute of Makers of Explosives, New York, New York
John W. Loosle, Manager, Safety Divison, Thiokol Corporation/Wasatch Division, Brigham City, Utah

United States Delegation to the Economic and Social Council (ECOSOC) Group of Rapporteurs, Committee of experts on transport of Dangerous Goods 29th Session Geneva, August 9–13, 1982

Representative

Alan I. Roberts, Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation

Alternate Representative

Edward A. Altemos, International Standards Coordinator, Office of Hazardous Material Regulation, Research and Special Programs Administration, Department of Transportation

Adviser

Charles W. Schultz, Chief, Sciences Branch, Office of Hazardous Materials Regulation, Research and Special Programs Administration, Department of transportation

Private Sector Adviser

Ronald C. Klein, E. I. Du Pont de Nemours, Inc., Wilmington, Delaware

United States Delegation to the Second UN Conference on the Peaceful Uses of Outer Space (UNISPACE), Vienna, August 9–21, 1982

Representative

The Honorable James M. Beggs, Administrator, National Aeronautics and Space Administration

Alternate Representatives

The Honorable John R. Bolton, Assistant Administrator for Program and Policy Coordination, Agency for International Development
The Honorable Anthony J. Calio, Deputy Administrator, National Oceanic and Atmospheric Administration
The Honorable Joseph Charyk, President and Chief Executive Officer Communications Satellite Corporation
Mrs. William P. Clark, Washington, D.C.
The Honorable Gerald B. Helman, Special Coordinator for UNISPACE, Department of State
The Honorable Charles Z. Wick, Director, International Communications Agency

Congressional Advisers

The Honorable George E. Brown, Jr., U.S. House of Representatives
The Honorable William Carney, U.S. House of Representatives
The Honorable Ronnie G. Flippo, U.S. House of Representatives

Congressional Staff Advisers

Radford Byerly, Jr., Committee on Science and Technology, U.S. House of Representatives
J. Jeffrey Irons, Subcommittee on Space Science and Applications, U.S. House of Representatives

Advisers

Burt Edelson, Associate Administrator for Space Science and Applications, National Aeronautics and Space Administration
Anna Fischer, M.D., Astronaut, National Aeronautics and Space Administration
Riccardo Giacconi, Space Telescope Science Institute, Baltimore, Maryland
Henry Hartsfield, Col., USAF., Astronaut, National Aeronautics and Space Administration
S. Neil Hosenball, General Counsel, National Aeronautics and Space Administration
Donald M. Jansky, Associate Administrator, National Telecommunications and Information Administration, Department of Commerce
J. Edward Melanson, Jr., Captain, USN, Assistant Director, Space Policy, Department of Defense
Kenneth S. Pederson, Director, International Affairs Division, National Aeronautics and Space Administration
Gilbert Rye, Colonel, USAF, National Security Council
David Small, Office of the Legal Adviser, Department of State
John H. Storrie, Brig. General, USAF, Headquarters, United States Air Force
Norman Terrell, Assistant Director for Nuclear and Weapons Control, U.S. Arms Control and Disarment Agency

Private Sector Advisers

Robert Anderson, Chairman of the Board and Chief Executive Officer, Rockwell International Corporation, Pittsburgh, Pennsylvania
Roy A. Anderson, Chairman of the Board, Space Systems Division, Lockheed Missiles and Space Company, Burbank, California
James V. Carroll, III, Attorney, Space Services, Inc., Washington, D.C.
Vincent N. Cook, President, Federal Systems Division, International Business Machines
Robert A. Duffy, President, Charles Stark Draper Laboratories, Cambridge, Massachusetts
Robin Fairbairn, Attorney, Paso Robles, California
Edward R. Finch, Jr., Attorney, New York, New York
Joseph G. Gavin, Jr., President and Chief Executive Officer, Grumman Corporation, Bethpage, New York
John M. Geer, Sacramento, California
Henry E. Hockeimer, President, Ford Aerospace and Communications Corporation, Detroit, Michigan
Franklyn C. Nofziger, Communications Consultant, Washington, D.C.
Charles A. Schmidt, Division Vice-President and General Manager, RCA, Astro-Electronics, Princeton, New Jersey

United States Delegation to the Second Session World Tourism Organization (WTO) Acapulco, August 21–27, 1982

Representative

David L. Edgell, Director, Office of Policy and Planning, U.S. Travel and Tourism Administration

Adviser

Theodore S. Wilkenson, Acting Political Counselor, United States Embassy, Mexico City

Private Sector Adviser

Donald Hawkins, Professor of Tourism, Department of Human Kinetics and Leisure Studies, The George Washington University, Washington, D.C.

[FR Doc. 82-26929 Filed 9-29-82; 8:45 am]
BILLING CODE 4710-19-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-093]

Coast Guard Academy Advisory Committee; Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held in Hamilton Hall at the U.S. Coast Guard Academy, New London, CT, on Tuesday and Wednesday, October 26–27, 1982. The open session on Tuesday will be held from 1:00 to 2:45 p.m. An open session will also be held on Wednesday from 8:45 to 10:00 a.m.

The agenda for this meeting is as follows: (a) Faculty, (b) curricula.

The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75–38 to advise on the course of instruction at the Academy, and to make recommendations as necessary.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend or present oral statements at the meeting should notify, not later than the day before the meeting: CAPT Roderick M. White, USCG, Dean of Academics/Executive Secretary of the Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT 06320, phone (203) 444–8275.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on September 17, 1982.

J. S. Gracey,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 82-26988 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee to be held from October 25, at 1 p.m., through October 29, at 1 p.m., at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. 20591.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Mr. L. Lane Speck, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT–301, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426–3725.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on September 16, 1982.

L. Lane Speck,

Executive Director, ATPAC.

[FR Doc. 82-26851 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-13-M

Traffic Alert and Collision Avoidance System (TCAS) Symposium

Note.—This document originally appeared in the **Federal Register** for Tuesday, September 28, 1982. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Federal Aviation Administration.

The Department of Transportation hereby announces a Traffic Alert and Collision Avoidance System (TCAS) Symposium. This 2-day symposium will commence at 10:30 a.m. on October 12, 1982, in the Federal Aviation Administration auditorium, 800 Independence Avenue, SW, Washington, D.C.

The purpose of this meeting is to present recent results from the FAA engineering development and evaluation program and to discuss these results and program plans with symposium attendees. This information exchange is intended to support current activities to develop Minimum Operational Performance Standards for TCAS.

TCAS is intended to satisfy the operational need for an airborne separation assurance service and to ensure compatibility with all elements of the National Airspace System. Its operation does not depend upon the existence of external equipment other than Air Traffic Control Radar Beacon System (ATCRBS) transponders with altitude encoders or Mode S transponders with altitude encoders in other aircraft.

Although the meeting is open to the public (space permitting) a registration fee of $7.00 will be levied to cover handouts and refreshments for the 2-day symposium. A block of rooms has been reserved at the Holiday Inn, 550 C St., SW, for your convenience. The reservations must be made to the hotel directly on 202–479–4000 no later than October 1 on a first come first serve basis.

Further information concerning the symposium may be obtained from the Federal Aviation Administration, Program Engineering and Maintenance Service, TCAS Branch, ARD–240, 800 Independence Avenue, SW,

Washington, D.C. 20591, telephone 202–426–9382.

Joseph J. Fee,

Symposium Manager.

September 24, 1982.

[FR Doc. 82-26703 Filed 9-27-82; 8:45 am]

BILLING CODE 4910-13-M

Aircraft-Generated Electromagnetic Interference on Future Electronic Systems; Workshop

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces a forthcoming workshop which will pemit selected research experts from the aviation industry to provide Electromagnetic Interference (EMI) effects information and conduct discussions relative to airframe, electrical power systems, flight control and avionic systems, and electronic engine control systems.

DATE: October 19–21, 1982, commencing at 8:30 a.m., at the Boeing Commercial Airplane Company Auditorium, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Nickolus O. Rasch, ACT–340, extension 1144, FAA Technical Center, Atlantic City Airport, New Jersey 08405, 609–641–8200. Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the workshop. Persons wishing to present statements or obtain information should contact Mr. N. Rasch. Any member of the public may present a written statement to the workshop chairman at any time.

SUPPLEMENTARY INFORMATION: The interaction which will occur at this workshop is expected to provide the aviation industry and the FAA with essential and timely information addressing aircraft and systems EMI effects, protection criteria, and guidelines. The agenda for this meeting is as follows: (1) Chairman's Introduction and Workshop Overview; (2) Definition of the Problem: (a) Digital Failure Mechanisms; (b) Coupling Paths; (c) Noise Environment; (d) Aircraft Electrical Power Transients; (e) Wire Braid Termination Effects; (f) Transients Study of the ARINC 429 Data Bus; (3) Proposed Solution: (a) Mission Level; (b) Specifications Development; (c) Design Guidelines; (d) Data Retrieval Requirements; and (4) Open Forum.

Dated: September 17, 1982.

Edmund J. Koenke,

Director, Federal Aviation Administration, Technical Center.

[FR Doc. 82-26531 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Draft Environmental Impact Statement Supplement; County of Los Angeles, Calif.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Draft Environmental Impact Statement Supplement will be prepared for a proposed highway project in Los Angeles, California.

FOR FURTHER INFORMATION CONTACT: Albert J. Gallardo, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 440–2804.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans), will prepare a Draft Environmental Impact Statement Supplement on a proposal to construct Route 7, the Long Beach Freeway on new alignment from Route 10 to Route 210 in the County of Los Angeles and the Cities of Alhambra, Los Angeles, South Pasadena, and Pasadena. The project would be 6.1 to 7.3 miles in length depending upon the corridor.

Alternatives under consideration include: (1) Taking no action; (2) one design option in the Westerly Corridor; and (3) one design option in the Meridian Corridor.

No scoping meetings have been scheduled at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the DEIS Supplement should be directed to the FHWA at the address provided above.

Issued on: September 21, 1982.

Albert J. Gallardo,

District Engineer, Sacramento, California.

[FR Doc. 82-26931 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Henderson County, Tex.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Henderson County, Texas.

FOR FURTHER INFORMATION CONTACT: George H. Nelson, P.E., District Engineer, Federal Highway Administration, 850 Federal Building, Austin, Texas 78701, Telephone: (512) 482–5988.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas State Department of Highways and Public Transportation (DHT), intends to prepare an environmental impact statement (EIS) on a proposal to extend Farm to Market Road 317 (FM 317) in Henderson County, Texas, as a four-lane, noncontrolled access facility around the City of Athens. Because of difficulty in predicting the availability of funds, the DHT has not yet decided whether to use State or Federal funds to finance construction of this project.

The proposed facility loops the City of Athens (Inc.) (1980 pop. 10,197). The corridor study begins and ends at State Highway 31 (SH 31) northeast of the city and generally follows the outer limits of the city's developed area. Length of the proposed roadway is approximately 17 miles.

The existing street system in Athens routes nearly all local and highway traffic through the town square. The concentration of traffic at the square and a large volume of heavy trucks results in congested traffic flow, time delays and hazardous driving conditions.

The proposed loop will provide an alternate route for through traffic and some local traffic. As a result, the volume of traffic negotiating the square, especially the large trucks, should be reduced significantly. Overall accessibility in the Athens area will be improved by the proposed project.

A number of alignment alternatives for the loop and the no-build alternative are under consideration for the proposed action.

There are currently no plans to hold a formal scoping meeting for this proposal. A public meeting was held early in the planning process for the proposed project. A public hearing will be held in the first half of 1983 at a convenient time and place for persons in the project area. Notification of the hearing will be made through the local news media.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

George H. Nelson,

District Engineer, Austin, Texas.

[FR Doc. 82-26930 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-22-M

Office of the Secretary

[Notice No. 82-7]

Environmental Procedures

AGENCY: Transportation Department, (DOT).

ACTION: Notice.

SUMMARY: The Department of Transportation (DOT) has revised its internal procedures for processing environmental impact statements. DOT Order 5610.1C, Procedures for Considering Environmental Impacts, has been revised to allow approval of final environmental impact statements (EISs) by the DOT Administration or Secretarial Office originating the action, without prior concurrence by the Assistant Secretary for Policy and International Affairs and the General Counsel. The previous order, dated September 18, 1979, provided that final EISs for certain categories of action could be approved by the originating office or administration only after concurrence by the Assistant Secretary. EISs which required such concurrence and which also included determinations pursuant to section 4(f) of the DOT Act also required concurrence by the General Counsel of the Department.

FOR FURTHER INFORMATION CONTACT: Camille Cleveland, Environmental Program Analyst, Department of Transportation, Environmental Division, 202–426–4366.

EFFECTIVE DATE: The effective date of the revision is July 13, 1982.

ADDRESS: Copies of Change 1 to DOT 5610.1C may be requested from: Environmental Division, P–37, Room 9400a, Office of Assistant Secretary for Policy and International Affairs, Department of Transportation, 400–7th Street, NW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: Change 1 to DOT 5610.1C has been issued to reflect organizational changes within the Office of the Assistant Secretary for Policy and International Affairs, effective in March 1982. The revision places a higher degree of responsibility for environmental processing with the operating administrations of the Department, and is expected to reduce the time required for processing of some final EISs. The authority to approve final EISs without prior concurrence by the Office of the Secretary was delegated to the operating administrations on an interim basis March 4, 1982. The Page Change, approved July 13, 1982, incorporates the interim delegation into the Department's formal directive on environmental processing.

The revised order requires that the operating administrations notify the Office of the Secretary that a highly controversial EIS is under review. In addition, the change permits operating administrations to consult directly with Council on Environmental Quality on project-related matters, rather than requiring that such consultation occur via the Office of the Assistant Secretary.

Issued in Washington, D.C. on September 21, 1982.

Judith T. Connor,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 82-26862 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Dept. Circular; Public Debt Series—No. 25–82]

Series F–1989; Interest Rates

September 23, 1982.

The Secretary announced on September 22, 1982, that the interest rate on the notes designated Series F–1989, described in Department Circular—Public Debt Series—No. 25–82 dated September 15, 1982, will be 11⅞ percent. Interest on the notes will be payable at the rate of 11⅞ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

FR Doc. 82–26956 Filed 9–29–82; 8:45 am]

BILLING CODE 4810–40–M

[Supplement to Dept. Circular; Public Debt Series No. 26–82]

Bonds of 2002; Interest Rates

September 24, 1982.

The Secretary announced on September 23, 1982, that the interest rate on the bonds designated Bonds of 2002, described in Department Circular—Public Debt Series—No. 26–82, dated September 15, 1982, will be 11-⅝ percent. Interest on the bonds will be payable at the rate of 11-⅝ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

FR Doc. 82–26957 Filed 9–28–82; 8:45 am]

BILLING CODE 4810–40–M

VETERANS ADMINISTRATION

Privacy Act of 1974; Amendment of Systems Notices; Changes Other Than Routine Use Statements

Notice is hereby given that the Veterans Administration is revising the paragraphs pertaining to: System name, system location, categories of individuals in the system, categories of records in the system, authority for maintenance of the system, safeguards, retention and disposal and record source categories in the system of records entitled: Veteran, Patient, Employee, and Volunteer Research and Development Project Records—VA (34VA11) as set forth on page 677 of the **Federal Register** Publication, Privacy Act Issuances, 1980, Compilation, Volume V. The above named paragraphs of the systems notice are being rewritten in a clearer and more concise manner in order to better identify to the public the types of individuals covered in the system, the types of records being maintained by the VA, and the location and disposal of these records. The authority for maintenance of the system is title 38, United States Code, chapter 73, section 4104(c).

The Privacy Act of 1974, 5 U.S.C. 552a(e), requires agencies to inform the public of any changes to their systems of records. However, since these changes do not alter the uses of the information in the system of records, public comment is not required. The changes are effective September 23, 1982.

Dated: September 23, 1982.

Robert P. Nimmo,

Administrator.

Notice of System of Records

In the system identified as 34VA11, "Veteran, Patient, Employee, and Volunteer Research and Development Project Records—VA," appearing at page 677 of the **Federal Register** Publication, Privacy Act Issuance, 1980 Compilation, Volume V, the system notice is revised as follows:

34VA11

SYSTEM NAME:

Veteran, Patient, Employee, and Volunteer Research and Development Project Records—VA.

SYSTEM LOCATION:

Records are maintained at each VA health care facility where the research project was conducted and at VA Central Office. Address locations for VA facilities are listed in VA Appendix 1 at the end of this document.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals will covered by this system: (1) Veterans; (2) patients; (3) employees, or, (4) volunteers who have indicated their willingness to be a participant in medical research projects being performed by the VA, by a VA contractor or by another Federal agency in conjunction with the VA; and (5) research and development investigators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records, or information contained in records, vary according to the specific medical research involved and may include: (1) Research on biomedical, prosthetic and health care services; (2) research stressing spinal cord injuries and diseases and other disabilities that tend to result in paralysis of the lower extremities; and (3) morbidity and mortality studies on former prisoners of war. Central Office records contain (4) a merit review of the project; (5) a review and evaluation of the research and development investigators and of the participants in the program. The review and evaluation information concerning the research and development investigators may include personal and educational background information as well as specific information concerning the type of research conducted.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, chapter 73, section 4104(c).

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

Records are retrieved by individual identifiers and indexed by a specific project site or location, project number, or under the name of the research or development investigator.

SAFEGUARDS:

Physical Security: Access to VA working space and medical record storage areas is restricted to VA employees on a "need to know" basis. Generally, VA file areas are locked after normal duty hours and are protected from outside access by the Federal Protective Service. Employee file records and file records of public figures or otherwise sensitive medical record files are stored in separate locked files. Strict control measures are enforced to ensure that disclosure is limited to a "need to know" basis. Records on investigators stored on automated storage media are accessible to authorized VACO personnel via terminals which are dedicated to this research and development information system.

RETENTION AND DISPOSAL:

The project records are held five (5) years after completion of the research project and/or publication of a report unless they become part of the patient's individual medical history file in which case the record would remain 15 years after the last activity of care.

* * * * *

RECORD SOURCE CATEGORIES:

(a) Patients and patient records, (b) employees and volunteers, (c) other Federal agencies, (d) National Institutes of Health, (e) Centers for Disease Control (Atlanta); (f) individual veterans, (g) other VA systems of records and; (h) research and development investigators.

[FR Doc. 82–26970 Filed 9–29–82; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 190
Thursday, September 30, 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

FEDERAL COMMUNICATIONS COMMISSION

September 22, 1982.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wedesday, September 29, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Petitions filed by the American Telecommunications Corporation (ATC) and Electronics Industries Association (EIA) for waiver of Section 15.7 of the FCC Rules for cordless telephones. This action considers whether to grant the ATC and EIA requests for waiver of Section 15.7 for cordless phones to allow them to operate under a more practical technical standard.

Common Carrier—1—*Title:* Investigation of ENFIA rate increase CC Docket No. 78-371. *Summary:* AT&T provides other carriers (OCCs) with access to local exchanges, for use with long distance services such as MCI's Execunet, under the ENFIA agreement negotiated by AT&T and the OCCs in 1979. In April the FCC extended the agreement for up to two years. AT&T then filed to increase the rate by more than 100%. The Commission suspended the increase, imposed an interim rate, and instituted an investigation. The specific issues concerned factors used in the agreement: the average OCC billed minutes of use per ENFIA line and the average local exchange cost assigned to AT&T's own long distance services. The Commission will consider what those factors should be under the agreement.

Television—1—*Title:* Request of Broadcast Corporation of Georgia (WVEU(TV), Channel 69 Atlanta, Georgia) to operate with 50% authorized power. *Summary:* Permittee for a new UHF TV station requests that the Commission relax its current power restriction on WVEU in the presence of continuing interference to land mobile services. Commission considers whether grant of request is warranted.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1392-82 Filed 9-29-82; 11:06 am]

BILLING CODE 6712-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, September 27, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Issac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the liquidation of assets acquired by the Corporation from The Mission State Bank & Trust Company (In Liquidation), Mission, Kansas (Case No. 45,396-L).

By the same majority vote, the Board further determined that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,401-L—Franklin National Bank, New York, New York

Case No. 45,408-L (amended)—Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico

Case No. 45,421-NR—Penn Square Bank, National Association, Oklahoma City, Oklahoma

Memorandum and Resolution re: Delegation of Approval Authority on Merger-Type Applications, and

Memorandum and Resolution re: $200,000 Funding Request from the Neighborhood Reinvestment Corporation

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: September 27, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1393-82 Filed 9-28-82; 11:29 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, September 27, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Liquidation Case No. 45,343-L—Reserves for Losses—108 Open Liquidation Cases, and

Memorandums re: Application of Losses and Accretions from Various Present Value Transactions of Merger Assistance Agreements to the Net Assessment Income Credit Computation (Two Memorandums)

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8),

(c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(B), and (c)(10)).

Dated: September 27, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1394–82 Filed 9–28–82; 11:29 am]

BILLING CODE 6714–01–M

4

FEDERAL ELECTION COMMISSION

[FR 1364]

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, September 28, 1982 at 10 a.m.

CHANGE IN MEETING: The meeting has been continued to Wednesday, September 29, 1982 at 2:00 p.m. in order to complete the agenda.

* * * * *

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, September 30, 1982 at 10 a.m.

CHANGES IN THE MEETING: The following matters have been added to the agenda:

Advisory Opinion 1982–51—Hayakawa for U.S. Senator (Continued from September 23, 1982)

Contingency Plan for Possible Absence of Appropriation for FY' 83. (Tentative)

The following matter has been dropped from the agenda:

FY' 83 Management Plan

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1398–82 Filed 9–28–82; 3:16 pm]

BILLING CODE 6715–01–M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, October 5, 1982 at 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance, Litigation, Audits, Personnel.

* * * * *

DATE AND TIME: Thursday, October 7, 1982 at 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings

Correction and approval of minutes

Advisory opinion 1982–49—Charles A. Muessel, Treasurer, Weicker '82 Committee

FY '83 Management Plan (tentative)

Draft advance notice of proposed rulemaking: Party Committee expenditure limitations (11 CFR 110.7)

Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1399–82 Filed 9–28–82; 3:16 pm]

BILLING CODE 6715–01–M

6

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 42490, Monday, September 27, 1982.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The following items have been added to the open portion of the Bank Board meeting scheduled Thursday, September 30, 1982 at 10 a.m.:

Branch Office Approval

Industry Conflict of Interest; Limitations on Loans to One Borrower

[No. 64, September 28, 1982]

J. J. Finn,

Secretariat.

[S–1397–82 Filed 9–28–82; 2:12 pm]

BILLING CODE 6720–01–M

7

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

TIME AND DATE: 9:00 a.m., October 6, 1982.

PLACE: City Council Chambers, W. 808 Spokane Falls Boulevard, Spokane, Washington.

MATTERS TO BE CONSIDERED:

- Election of Chairman and Vice Chairman
- Staff presentation on Agricultural Conservation
- Staff Presentation on Industrial Conservation
- Staff Presentation on Rate Design
- Staff Presentation on Conservation Programs Evaluations
- Council Business

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Wong (503) 222–5161

Edward Sheets,

Executive Director.

[S–1395–82 Filed 9–28–82; 11:29 am]

BILLING CODE 0000–00–M

8

POSTAL RATE COMMISSION

TIME AND DATE: 9 a.m., Wednesday, September 29, 1982.

PLACE: Conference Room, Room 500, 2000 L Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Third-class bulk mail rates. (Docket R80–1) (Closed pursuant to 5 U.S.C. 552b(c)(10))

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268; Telephone (202) 254–5614.

[S–1396–82 Filed 9–28–82; 12:27 pm]

BILLING CODE 7715–01–M

federal register

Thursday
September 30, 1982

Part II

Department of Commerce

Patent and Trademark Office

Small Business Administration

Revision of Patent and Trademark Fees and Definition of Small Business Concern

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Definition of Small Business for Paying Reduced Patent Fees Under Title 35, United States Code

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration in conjunction with the Patent and Trademark Office is establishing a definition of small business for the purpose of paying patent fees under section 41 (a) and (b) of Title 35, United States Code, which are reduced by 50 per centum for small business concerns as required by Pub.L. 97–247. The definition would be implemented by the Patent and Trademark Office, which has recently published its regulations on the fee reduction procedures (47 FR 40134, September 10, 1982).

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: R. Franklin Burnett (703) 557–3054. Harvey Bronstein (202) 653–6373.

SUPPLEMENTARY INFORMATION: Pub. L. 97–247 provides that funds available under the Act to the Patent and Trademark Office "shall be used to reduce by 50 per centum the payment of fees under Section 41 (a) and (b) of Title 35, United States Code, by small business concerns as defined in Section 3 of the Small Business Act and by regulations established by the Small Business Administration."

A notice of proposed rulemaking relating to the definition of a small business was published in the **Federal Register** on August 31, 1982 (47 FR 38331). The regulation being issued is the same as that which was proposed. In order to be a small business, the number of employees of the concern, including those of its affiliates, may not exceed 500 persons. Concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of a business concern is determined by counting the number of persons of the concern and its affiliates employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern and of its affiliates. The number of employees is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year.

The definition also requires a small business for this purpose to be one "which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey, or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section."

Discussion of Comments

One comment from the American Patent Law Association, whose membership includes several thousand lawyers involved in the practice of law before the U.S. Patent and Trademark Office, expressed "no comment regarding the definition" and expressed "[t]hanks for all that's been done toward a hopefully workable definition." The remaining comments were from individual patent attorneys rather than comments on behalf of any organization.

Two comments raised questions about the intended scope of the term "license." It was suggested that clarification is needed as to what is included within the scope of the term. One comment suggested that, "[a]t the very least, the record should reflect that the definition is not intended to reach implied licenses to use and resell patented articles purchased from a small business." The comment is correct insofar as it suggests that such "implied licenses" are not intended to be included within the scope of the term. Likewise, an order by the applicant to a firm to build a proto-type machine or product for the applicant's own use is not considered to constitute a license for purposes of the definition.

Another suggestion was that the regulation be reworded to deny small business status where revenue above a certain dollar amount was received from licensing rights under the invention to a concern which could not qualify as a small entity. It was also suggested that the term "exclusive license of any of the rights in the invention" be used instead of the term "license." The latter two suggestions have not been adopted. Adoption of these suggestions would cause the regulation to become more complicated, and does not appear necessary to aid small concerns in accord with the purposes of the legislation. In addition, it could substantially broaden the number of concerns which could qualify with a resulting excessive loss of revenue to the Patent and Trademark Office. It is not seen likely that the restriction on licensing would unduly or adversely affect the ability of the small business concern to participate in the patent system.

Another comment which was made related to a firm which is a subsidiary of a university or other nonprofit organization. The suggestion was made that the number of employees of the university or other nonprofit affiliate be excluded from consideration in determining whether or not the business concern qualifies as a small business concern. The suggestion has not been adopted since the situation raised is already treated under the definition of nonprofit organization established by the Patent and Trademark Office on September 10, 1982, at 47 FR 40134–40140. Under that Patent and Trademark Office regulation, a wholly owned subsidiary of a nonprofit or university is considered a part of the university or nonprofit and thus is already eligible for the fee reduction.

One comment suggested that the regulation contain language specifying that concerns meeting its requirements are also independently owned and operated and not dominant in their field of operation under the Small Business Act. It is not necessary to include this language since this regulation already contains an affiliation test for this purpose; and it is generally unlikely that a small concern would be found to be dominant. The legislative history of the Small Business Act indicates that "The mere fact that a small business makes a particular product or item and is dominant in its field with respect to the particular product or item is not intended to disqualify it from the benefits of this Act * * *" (House Report 494, 83rd Congress, 1st Session 1953). SBA Size Appeals Board precedents have consistently stated that dominance under the Act and the SBA regulations is not viewed in narrow industry subdivisions. It, therefore, does not appear that concerns defined as small business under this provision would be dominant within the meaning of the Small Business Act.

Another comment suggested that foreign concerns should not be eligible as small business under this provision. Since this patent legislation was enacted by the Congress with knowledge of the Paris Convention for the Protection of Industrial Property, there is no indication that Congress intended that foreign small business not be eligible for

the fee reduction. It is the view of the Patent and Trademark Office that excluding foreign small concerns would violate U.S. treaties in the patent area.

This comment also questioned whether the Patent and Trademark Office should make initial size determinations, or whether they could more appropriately be made by SBA. Since the fee reduction procedure is part of the patent application and of other Patent and Trademark Office actions and may involve Patent law questions, it would be administratively infeasible to have initial size determinations made by the SBA. The Patent and Trademark Office recently issued regulations (September 10, 1982, 47 FR 40134) which set forth the fee reduction procedures.

Other Considerations Relating to the Rulemaking

Environmental, energy, and other considerations: The rule will not have a significant impact on the quality of the human environment or the conservation of energy resources.

Small business concerns will be benefited by the rule. The proposed rule will not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354). Public Law 97–247 has taken into consideration the impact it may have on small entities and has reduced the fees, therefore, by 50 per centum.

The Small Business Administration has determined that this rule is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no 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.

This rule will not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, since no significant additional record keeping or reporting requirements are placed upon the public.

List of Subjects in 13 CFR Part 121

Small businesses, Inventions and patents.

PART 121—SMALL BUSINESS SIZE STANDARDS

Accordingly, pursuant to Section 3 of the Small Business Act and Pub. L. 97–247, Part 121 of Title 13 of the Code of Federal Regulations is amended by adding § 121.3–18 to read as follows:

§ 121.3–18 Definition of small business for paying reduced patent fees under Title 35, U.S. Code

(a) Pursuant to Pub. L. 97–247, a small business concern for purposes of paying reduced fees under 35 U.S. Code 41 (a) and (b) to the Patent and Trademark Office means any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. For the purpose of this section concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of the business concern is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Employees are those persons employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern.

(b) If the Patent and Trademark Office determines that a concern is not eligible as a small business concern within this section, the concern shall have a right to appeal that determination to the Small Business Administration. The Patent and Trademark Office shall transmit its written decision and the pertinent size determination file to the SBA in the event of such adverse determination and size appeal. Such appeals by concerns should be submitted to the SBA at 1441 L Street, NW., Washington, D.C. 20416 (Attention: SBA Office of General Counsel). The appeal should state the basis upon which it is claimed that the Patent and Trademark Office initial size determination on the concern was in error and the facts and arguments supporting the concern's claimed status as a small business concern under this section.

Dated: September 23, 1982.

Robert B. Webber,

Acting Administrator.

[FR Doc. 82–26940 Filed 9–29–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 2909–187]

Revision of Patent and Trademark Fees

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending the rules of practice in patent and trademark cases to establish a definition and procedures for the payment of fees under section 41 (a) and (b) of Title 35, United States Code, by small business concerns as required by Pub. L. 97–247. This action adopts the definition of a "small business concern" for purposes of paying patent fees established by the Small Business Administration and is necessary at this time in order that the procedures for paying reduced fees will be effective on October 1, 1982, the effective date of the changes in the amounts of Patent and Trademark Office fees established by Pub. L. 97–247.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: R. Franklin Burnett by telephone at (703) 557–3054 or by mail addressed to the Commissioner of Patents and Trademarks, Attention: R. Franklin Burnett, Room 3–11A13, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** on June 28, 1982, at 47 FR 28042–28063 and in the *Official Gazette* on June 29, 1982, at 1019 O.G. 57–120. Oral hearings were held on July 9, 1982. Full consideration has been given to all of the letters, statements, and testimony received at the time. A final rule on "Revision of Patent and Trademark Fees" was published on July 30, 1982 at 47 FR 33086–33112 with corrections in the printing thereof being published on August 4, 1982, at 47 FR 33688 and on August 5, 1982, at 47 FR 33959. The final rule was also published in the *Official Gazette* on August 10, 1982, at 1021 O.G. 19–94. In view of comments received at the hearings, additional time for comment on certain rules, including those covered by this change, was given until August 13, 1982. The notice extending the time for comment was published on July 27, 1982 at 47 FR 32458. A final rule relating to definitions of "independent inventor" and "nonprofit organizations" was published on September 10, 1982 at 47 FR 40134–40140.

Objectives of Rule Changes

These rule changes are designed to implement the Patent and Trademark Office fees and procedures which are provided for by Pub. L. 97–247.

Public Law 97–247

Pub. L. 97–247, signed August 27, 1982, provides that funds available under the act "shall be used to reduce by 50 per centum the payment of fees under section 41 (a) and (b) of title 35, United States Code" by independent inventors, small business concerns, and nonprofit organizations. The Commissioner has established regulations defining independent inventors and nonprofit organizations. Pub. L. 97–247 defines small business concerns by reference to Section 3 of the Small Business Act and regulations established by the Small Business Administration. The Small Business Administration has now established the definition of a small business concern for the purpose of paying reduced fees under Pub. L. 97–247. That definition is hereby incorporated into the patent rules of practice in § 1.9(d). This rulemaking also establishes the procedures which will be followed by small business concerns when paying the reduced fees.

Discussion of Specific Sections

The following sections are changed by this final rule, effective October 1, 1982:

Section 1.9, as amended, adds paragraph (d) which defines small business concern as used in Title 37, Code of Federal Regulations, Chapter I. A small business concern is identified as a "small entity" for purposes of paying fees which are set under section 41(a) and (b) of Title 35, United States Code, as amended by Pub. L. 97–247.

Section 1.9(d) defines a small business concern by reference to and incorporation of § 121.3–18 of Title 13, Code of Federal Regulations. A small business concern is defined therein as any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey, or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. The section further defines affiliates of concerns and defines also the terms "employees" and "number of employees." concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees a business concern has is determined by counting the number of persons of the concern and its affiliates employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern and of its affiliates. The number of employees is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Business concerns located in any country which meet the small business definition and which comply with the applicable procedures can qualify as a "small business concern". Under the definition, a small business concern would no longer qualify as a small business concern if any rights were assigned to any individual or concern which could not qualify as a small entity pursuant to § 1.9(f), or if the concern came under an obligation to assign any rights to any individual or concern which could not qualify as a small entity.

Section 1.9(d) also incorporates paragraph (b) of 13 CFR 121.3–18 which provides for appeals to the Small Business Administration from Patent and Trademark Office adverse initial size determinations.

Paragraph 1.27(c) provides for claiming status as a small business concern. Any person seeking to establish status as a small entity, for purpose of paying reduced fees, must file a statement to that effect prior to or with the payment of the first fee paid as a small entity. Under § 1.27, as long as all of the rights remain in small entities, the fees established for a small entity can be paid. This includes circumstances where the rights were divided between an independent inventor, a small business concern and a nonprofit organization or any combination thereof.

A number of changes which have been made to §§ 1.9 and 1.27 as a result of the comments received and further review of the proposed rulemaking are identified below.

Paragraph (d) of § 1.9 has been changed from that proposed so as to incorporate into § 1.9(d), the definition established by the Small Business Administration in § 121.3–18 of Title 13, Code of Federal Regulations. The definition differs from that proposed in specifying the number of employees constituting a small business concern and specifying that the concern must be one which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license any rights in the invention to any person or concern which could not be classified as an independent inventor, small business concern, or nonprofit organization.

Paragraph (c) of § 1.27 has been changed from that proposed to clarify who is to file the verified statement. The verified statement for a small business concern is to be signed by "the owner or an official of the small business concern empowered to act on behalf of the concern." The term "official" as used in paragraph (c) is intended to include any officer, employee, or part-owner empowered to act on behalf of a small business concern. For example, an officer or employee of a corporation empowered to act for the corporation by its board of directors would be qualified to sign such a verified statement.

Response to Comments on the Patent Rules

Specific comments were received on a number of the sections. All of the comments, including the oral testimony and the written comments, were considered in adopting the changes set forth herein.

Written comments on the rules affected by this final rule were received from three patent law groups and a number of individuals. The three patent law groups were (1) the American Patent Law Association; (2) the Patent, Trademark, and Copyright Section of the Virginia State Bar; and (3) the Patent, Trademark and Copyright Law Section of the Bar Association of the District of Columbia.

Oral comments were presented at the hearing on behalf of two patent law groups.

The comments appear below along with replies thereto.

Comment

Two comments urged that in view of the "exceedingly complex" definitions of a "small business" in 13 CFR 121.3, the patent system and those associated with it would be best served by setting forth clear guidelines as to whether or not a business qualifies as a small business without reference to the Small Business Act and without incorporation by reference of "the too many pages of SBA regulatory definition."

Reply

Pub. L. 97–247 specifically refers to section 3 of the Small Business Act and regulations established by the Small Business Administration for determining whether or not a business concern qualifies as a small business concern. Pub. L. 97–247 therefore does not permit

the establishment of guidelines without reference to the Small Business Act and regulations established by the Small Business Administration. Section 1.9(d), however, does incorporate the definition as established in § 121.3–18 of Title 13, Code of Federal Regulations. This will enable persons to utilize § 1.9(d) without also referring to a copy of Title 13, CFR.

Comment

One comment argued that § 1.27 should be corrected or clarified to indicate that a small business concern would be entitled to the 50 percent fee reduction even though it may grant a non-exclusive or even an exclusive license to some non-small entity.

Reply

The suggestion has not been adopted. Section 1.27 requires that the concern qualify as a small business concern as defined in § 1.9(d). Section 1.9(d) defines a small business concern by incorporating 13 CFR 121.3–18, which in turn defines a small business concern as one not exceeding a particular size "which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section." The intent of both 13 CFR 121.3–18 and 37 CFR 1.9(d) and 1.27(c) is to limit the payment of reduced fees under section 41 (a) and (b) of Title 35, United States Code, to those situations in which all of the rights in the invention are owned by small entities, i.e., independent inventors, small business concerns, or nonprofit organizations. To do otherwise would be clearly contrary to the intended purpose of the legislation which contains no indication that fees are to be reduced in circumstances where rights are owned by non-small entities. Adopting the suggestion might, for example, permit a non-small entity to transfer patent rights to a small business concern which would pay the reduced fees and grant an exclusive license to the non-small entity.

Comment

One comment suggested that the specific Small Business Administration regulations which are applicable be specified in § 1.9(d).

Reply

The definition of a small business concern as established by the Small Business Administration is now incorporated into § 1.9(d).

Implementation of §§ 1.9 and 1.27

Status as a small entity can be established in any application or patent for which a fee is due on or after October 1, 1982, and in which the individual inventor, small business concern, or nonprofit organization meets the qualifications established for small entity status.

Other Considerations Relating to Patent and Trademark Fee Revisions

Environmental, energy, and other considerations: The rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

This rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Order 12291, and the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

The rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act. Pub. L. 96–354) for several reasons. Pub. L. 97–247 has taken into consideration the impact the increase in fees may have on small entities. Under Pub. L. 97–247 and this rulemaking, small entities will be able to pay reduced fees for filing patent applications and for the issuance and maintenance in force of patents.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no 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.

This rule change will not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, since no significant additional record keeping or reporting requirements are placed upon the public.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Inventions and patents, Small businesses.

Amendment of Regulations

For the reasons indicated above and pursuant to the authority given to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, and Pub. L. 97–247, Part 1 of Title 37, Code of Federal Regulations, is amended as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

1. Section 1.9 is amended by adding a new paragraph (d) to read as follows:

§ 1.9 Definitions.

* * * * *

(d) A small business concern as used in this chapter means any business concern as defined by the Small Business Administration in 13 CFR 121.3–18, published on September 30, 1982 at 47 FR 43273. For the convenience of the users of these regulations, that definition states:

§ 121.3–18 Definition of small business for paying reduced patent fees under Title 35, U.S. Code

(a) Pursuant to Pub. L. 97–247, a small business concern for purposes of paying reduced fees under 35 U.S. Code 41 (a) and (b) to the Patent and Trademark Office means any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. For the purpose of this section concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of the business concern is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Employees are those persons employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern.

(b) If the Patent and Trademark Office determines that a concern is not eligible as a small business concern within this section, the concern shall have a right to appeal that determination to the Small Business Administration. The Patent and Trademark Office shall transmit its written decision and the pertinent size determination file to the SBA in the event of such adverse determination and size appeal. Such appeals by concerns should be submitted to the SBA at 1441 L Street, NW., Washington, D.C. 20416 (Attention: SBA Office of General Counsel). The appeal should state the basis upon which it is claimed that the Patent and Trademark Office initial size determination on the concern was in error; and the facts and arguments supporting the concern's claimed

status as a small business concern under this section.

2. Section 1.27 is amended by adding a new paragraph (c) to read as follows:

§ 1.27 Statement of status as small entity.

* * * * *

(c) Any verified statement filed pursuant to paragraph (a) of this section on behalf of a small business concern must (1) be signed by the owner or an official of the small business concern empowered to act on behalf of the concern; (2) aver that the concern qualifies as a small business concern as defined in § 1.9(d); and (3) aver that exclusive rights to the invention have been conveyed to and remain with the small business concern, or if the rights are not exclusive, that all other rights belong to small entities as defined in § 1.9. Where the rights of the small business concern as a small entity are not exclusive, a verified statement must also be filed by the other small entities having rights averring to their status as such.

Dated: September 23, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 82-26941 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-16-M

federal register

Thursday
September 30, 1982

Part III

Department of Transportation

Federal Aviation Administration

Special Federal Aviation Regulation No. 44-5; Air Traffic Control System; Interim Operations Plan

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 22050; SFAR No. 44-5]

Special Federal Aviation Regulation No. 44-5; Air Traffic Control System; Interim Operations Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment to Special Federal Aviation Regulation (SFAR) No. 44-5, which established procedures to be used in the allocation of additional air traffic system capacity as it becomes available, makes adjustments to the procedures utilized for allocation of slots. It changes the time periods in which carriers must select slots as well as establishing "passing" procedures. The amendment is necessary to respond to problems and questions that arose during the slot selection session.

EFFECTIVE DATE: September 27, 1982.

ADDRESSES: Send comments on the rule in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 22050, 800 Independence Avenue, SW., Washington, D.C. 20591.

or deliver them to:

800 Independence Avenue, SW., Room 915G, Washington, D.C.

Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Edward P. Faberman, Deputy Chief Counsel, 202-426-3775

or

Thomas P. Messier, Deputy Director, Office of Aviation Policy and Plans, 202-426-0583

Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591

SUPPLEMENTARY INFORMATION:

Comments Invited

Although this is issued as a final rule, comments are invited on the amendment. Comments relating to the environmental, energy, or economic impacts that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket and be submitted in duplicate to the address above. All communications received will be considered by the Administrator on a continuing basis. The requirements contained in this amendment may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with the rulemaking will be filed in the docket. Commenters wishing to have the FAA acknowledge receipt of their comments must submit with those coments a self-address, stamped postcard on which the following statement is made: "Comments to Docket Number 22050." The postcard will be dated, time-stamped, and returned to the commenter.

Background and Discussion

On August 9, 1982, the FAA issued SFAR 44-5 (47 FR 35156; August 12, 1982) which established procedures to be used in the allocation of additional air traffic system capacity as it becomes available. The amendment established a slot selection system which allowed carriers to choose slots they desire from those available during a slot selection session.

On August 20, 1982, the FAA conducted a random draw to determine the order of selection for all future allocation periods. On August 25-26, 1982, the agency held a slot selection session. During that session, a number of questions were raised concerning the slot selection procedures. As a result of these questions and other issues that have arisen since issuance of SFAR 44-5, it is necessary to adjust the existing procedures prior to the next scheduled slot selection session.

5-Minute Selection Requirement

Under SFAR 44-5, a carrier is required to make its slot selection within 5 minutes after its turn is called or it will lose its turn. At the August slot selection session, there were a number of carriers which did not make selections. These carriers either did not appear at the session or left the session after an early sequence. Because of the 5-minute requirement, the session was interrupted for 5 minutes for each missing carrier to see if that carrier was, in fact, participating in the session. Since this occurred numerous times, a great deal of time was wasted. To rectify this, the 5-minute requirement is amended. A carrier still has 5 minutes to make its selection. However, if the carrier is not prepared to make its selection within 1 minute after its turn is called, it must answer "present." If the carrier does not answer "present" within 1 minute after its turn is called, the carrier will lose its turn in that round. If the carrier answers "present," it still must make its slot selection within a total of 5 minutes after its turn is called.

New Entrant Definition

SFAR 44-5 defines "new entrant" as a carrier that is not operating at any airport on or before August 1, 1982, has appropriate Civil Aeronautic Board (CAB) authority, and has applied for an FAA certificate. An unanswered question was—"At what point can a 'new entrant' be added to the priority selection list?

In determining when an applicant has applied for an FAA certificate, the agency has stated the following:

A formal application for a certificate is not complete or considered submitted until the applicant has presented to the FAA District Office such items including the following:

1. Compliance statement.
2. Aircraft operating manuals.
3. Company operating manuals.
4. Training programs.
5. Maintenance programs.
6. Schedule of events, such as:

(a) Proving runs;
(b) Aircraft deliveries;
(c) Training complete dates;
(d) Emergency evacuation demonstration; and
(e) First revenue trip.

By submitting this information (if carrier has met other criteria) the carrier would be considered as a new entrant and thus would be able to obtain slots. The FAA recognizes, however, that it is not necessarily equitable to require a new entrant to complete submission of all such material before it can be added to the selection list. Therefore, the agency will allow an applicant to be added to the priority list if it has an appropriate CAB certificate, has not operated at any airport on or before August 1, 1982, and has submitted at least one of the six categories of documentation listed above. Although the applicant will be added to the priority list, it will not be able to select slots until it has submitted all the required information as listed above. Such an applicant cannot trade its selection position.

Use or Lose Provision

SFAR 44-5 states that slots that a carrier does not actually use at least 57 percent of the schedule period will be automatically revoked. This means that slots must be utilized on an average of 4 days per week. The FAA believes that there is one situation in which it is appropriate to provide some relief from this requirement. This area involves

carriers that only operate a seasonal operation a few days a week or for a part of a schedule period. An example of this would be a situation in which a carrier operates Thursday, Friday and Saturday flights into Denver during the winter months. The carrier has a slot which it wishes to dedicate to this operation. The slot is operated every January–March. It will obviously not use the slot 57 percent of the schedule period. This limited number of seasonal carriers should be able to obtain some relief from the use or lose provision. Thus, if a carrier wishes to use a slot for a seasonal operation (carrier has the burden of showing that that operation has been historically seasonal) for less than 57 percent of the schedule period, the carrier can obtain a written waiver from this provision from the Associate Administrator for Policy and International Aviation (API–1). To obtain the waiver, the carrier must submit, in writing, the following information:

1. The slot or slots in question;

2. The operation for which the slot will be utilized;

3. The number of days in which the operation will be conducted; and

4. The basis for which the operation is considered to be historically seasonal.

If this information is acceptable, API–1 will provide the carrier with a written waiver which will allow the carrier to operate the particular slot less than 57 percent of the schedule period. The FAA will submit the remaining days not in use to the Central Flow Control facility to allow the slot to be used for charter and extra sections during the remainder of the unused schedule period.

Carriers are reminded that if they wish to obtain slots for 1 or 2 days a week, they must obtain those slots directly from Central Flow Control as available.

Trade of Slots

SFAR 44–5 reminded carriers that the prohibition against selling slots was continued. To verify that slots involved in a trade were not involved in a sale, the agency believes it appropriate for the carrier obtaining the slot to make an affirmative statement that the transaction did not involve consideration other than slots. Thus, such a statement must be submitted to API–1 in accordance with any request for approval for any trade of slots or position in the slot selection process by a principal of that airline. The FAA's policy on trade of slots has been approved by the Office of Management and Budget through June 30, 1983.

Passing

SFAR 44–5 provides for "passing." An air carrier deciding not to select slots may advise the FAA, prior to that carrier's first opportunity to select slots, that it will "pass." If a carrier passes from one session to the next, it will be placed at the top of the appropriate pass list for the next selection session.

One question that arose during the first slot selection was whether an impacted incumbent could pass. The answer to that question is yes. An impacted incumbent may pass its two "impacted" selections from one selection session to the next. An impacted incumbent who elects to pass will be placed on the "impacted incumbent pass list" for the next session. Impacted incumbents are reminded that they do not have to select slots as an impacted incumbent and, instead, may defer their selection until they come up in the regular selection order.

In this connection, carriers are reminded that during any slot selection sequence after their turn is called, they may defer without passing. This means that they will not select a slot during that sequence but may select a slot in a later sequence. A carrier that defers remains in the same selection position.

One additional clarification is necessary in connection with "passing." The order of sequence carriers held when they passed will determine the order in which they will select slots in the next session. This eliminates any race to pass by hand-delivering a "pass" notice to the FAA. The rule has been changed accordingly.

Seasonal Operations

There are a number of carriers which conduct operations during a limited time period that are considered to be seasonal operations. These operations are often to resort areas during either the winter or summer periods. The FAA acknowledges that there must be some adjustments to the slot base of these carriers to allow them to continue operations which they have historically flown. In some situations a carrier will actually cease the operation after the summer and will operate elsewhere in the winter. If a carrier is not permitted to obtain slots for such seasonal operations, it may not be able to continue in business. Therefore, the FAA will, in certain cases, adjust a carrier's base if that carrier establishes that an adjustment is necessary for it to conduct a seasonal operation which it has historically operated. In accomplishing this, the following factors will be considered: (1) The slots necessary to conduct the seasonal operation; (2) Whether the operation has been flown at least one previous year; (3) The seasonal operation is for a continuous period of six months or less; (4) A carrier no longer has in its base slots used for this seasonal operation; (5) The seasonal operation is a major part of the carrier's overall operation; (6) The carrier has fewer slots in its base at the airport at which the seasonal operation is proposed than it did when the seasonal operation was previously conducted, adjusted to take into account any slots the carrier may have sold or traded.

A carrier which has a significant number of slots will not be given seasonal slots. The intent of this provision is to allow the agency to increase the base of a carrier which is dependent upon a seasonal operation. If a carrier does meet the above criteria every attempt made will accommodate the carrier without lessening the number of slots available at the slot selection session.

SFAR 44–5 requires air carriers to submit charter, extra section, emergency, ferry, pilot training, and mechanical repair checkout flight requests to the FAA Central Flow Control Facility. The number of these types of operations has remained consistent during the past several months. These operations are conducted throughout the day at many airports. The total number of such flights does not place a burden on the system. Therefore, the FAA is removing the need to obtain any slot authority for non-passenger ferry flights, pilot training, and mechanical repair checkout operations. It will still be necessary to obtain Central Flow approval for charter and extra section operations.

This action is consistent with a petition for rulemaking dated September 2, 1982, by the Air Transport Association of America. The other proposals contained in their petition will not be acted upon at this time, but will be considered as part of the agency's continued review of the system.

The agency will closely monitor operations under this amendment. If this authority is not strictly adhered to, the agency will reconsider this change.

Change of Controlled Airports and Centers

Effective September 21, 1982, flights within the Washington Center no longer need slots. However, an operation to an airport within the Washington Center from an airport outside of the Center, e.g., from JFK to BWI still requires a slot at the arrival airport, in this case BWI.

Immediate Adoption of Rule

This rule involves a number of procedural changes to existing allocation procedures which are necessary to clarify those procedures. It is necessary for these changes to be made before the next slot allocation. Therefore, I find that further notice and public procedure thereon are impracticable and contrary to the public interest. I further find that good cause exists for making this regulation effective in less than 30 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 91

Air traffic control.

Adoption of the Rule

PART 91—GENERAL OPERATING AND FLIGHT RULES

Chapter I of Title 14 of the Code of Federal Regulations is amended as follows effective September 27, 1982.

The Appendix to Special Federal Aviation Regulation 44–5 (14 CFR Part 91) is amended as follows:

1. The following is added at the end of paragraph 2(a):

Upon a showing by the carrier that an operation is historically seasonal, API–1 may grant a waiver from the 57-percent requirement.

2. The following is substituted in lieu of the second sentence of paragraph (2)(e):

A carrier must answer "present" or make its selections within 1 minute or it will lose its turn. If it answers "present," the carrier must make its selection within 5 minutes total after its turn is called or it will lose its turn.

3. The following sentence is added at the end of paragraph 2(e):

A carrier not passing and deciding not to select slots in a particular sequence may "defer" selection in that sequence.

4. The last paragraph of paragraph 2(f) is changed to read as follows:

After the first slot selection session, the order for slot selection will be as follows: (1) impacted incumbents that "passed" their "impacted incumbent" selections in the previous slot selection session in the order in which they were listed as impacted; (2) impacted incumbents; (3) carriers that "passed" in the previous slot selection section in the order in which they were listed in the selection list; and (4) the carrier following the last carrier to make a slot selection in the previous session.

5. The following is inserted in lieu of the first sentence in paragraph 4:

Charter and extra section flight requests shall be made to the FAA Central Flow Facility. Non-passenger ferry flights, pilot training and mechanical repair checkout operations may be conducted notwithstanding the limitations contained in this SFAR.

(Secs. 307 (a) and (c), 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348 (a) and (c), 1354(a), and 1421(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. Section 1655(c)))

Note.—The FAA has determined that this rule is only a clarifying amendment in that it adjusts the procedures utilized during the slot selection process. It is consistent with previous interpretations given at the selection sessions. There are no apparent direct or indirect (non-industry) costs associated with the amendment. Therefore, the preparation of a regulatory evaluation is unnecessary.

Based on the above, it has been determined that this is not a major regulation under Executive Order 12291 and I certify that, under the criteria of the Regulatory Flexibility Act, the rule will not have a significant economic impact on a substantial number of small entities. In addition, the FAA has determined that this amendment is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on September 27, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82–26980 Filed 9–27–82; 3:53 pm]

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Thursday
September 30, 1982

Part IV

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Medicare Hospital Reimbursement Reforms: Limitations on Reimbursable Costs and the Rate of Hospital Cost Increases

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Medicare Hospital Reimbursement Reforms: Limitations on Reimbursable Costs and the Rate of Hospital Cost Increases

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim Final Rule with Comment Period.

SUMMARY: These rules implement section 1886 of the Social Security Act (established by section 101 of the Tax Equity and Fiscal Responsibility Act of 1982). These rules amend current regulations on hospital cost limits, providing for new exemptions and exceptions. These amendments make exceptions available to hospitals consistent with the new cost limits published elsewhere in this issue of the **Federal Register**, and specifically exempt from those cost limits rural hospitals with less than 50 beds in existence as of the enactment of the law. These rules also set forth new regulations establishing a three-year ceiling on the allowable annual rate of increase in operating costs per case for inpatient hospital services. This ceiling takes the form of a target amount of cost per case against which a hospital's incurred cost per case will be compared. Hospitals are provided incentives to keep their cost increases below the target rate. A hospital that has costs per case less than the target amount will be paid a portion of the difference between actual cost and the target amount. A hospital that has costs per case that are greater than the target amount will be paid the target amount plus 25 percent of its costs in excess of the target for the first two years of the ceiling, and none of the excess in the third year. However, payment to a hospital under these new target rate regulations will not be greater than the amount determined under the new schedule of limits on hospital inpatient operating costs published elsewhere in this issue of the **Federal Register.**

DATES: These rules are effective for hospital cost reporting periods beginning on or after October 1, 1982. 42 CFR 405.463, establishing target rates for hospital cost increases, will apply only to cost reporting periods beginning before October 1, 1985.

To assure consideration, comments should be received by November 29, 1982.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235

In commenting, please refer to file code BPP–233–FC.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comments received may be inspected during regular business hours at Room 309–G, of the Department's offices in the Humphrey Building, at the address mentioned above, beginning about 3 weeks after the date of publication. Arrangements to inspect these comments should be made by calling (202) 245–7890.

FOR FURTHER INFORMATION CONTACT: Marilyn Koch, (301) 594–9235.

SUPPLEMENTARY INFORMATION:

I. Background

A. *Legislative History.* Section 223 of the Social Security Amendments of 1972 (Pub. L. 92–603; enacted October 10, 1972), amended section 1861(v)(i) of the Social Security Act (42 U.S.C. 1395x(v)(1)), to authorize the Secretary to set prospective limits on the costs that are reimbursed under Medicare. These limits (commonly called section 223 cost limits) may be applied to direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider, and may be based on estimates of the costs necessary in the efficient delivery of needed health services.

Regulations implementing this authority are set forth at 42 CFR 405.460. Under this authority, we have published section 223 limits on hospital inpatient general routine per diem costs annually since 1974. The current schedule of limits on hospital inpatient general routine per diem operating costs was published on September 30, 1981 (46 FR 48010), and applies to hospitals with cost reporting periods ending after September 30, 1981.

On September 3, 1982, the President signed into law the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248). Section 101 of this legislation added a new section 1886 of the Social Security Act, supplementing section 1861(v) of the Act by providing for "further limitations on reasonable cost and determination of payment amounts for operating costs of inpatient hospital services * * *". (Section 101(d) of Pub. L. 97–248.) These regulations implement provisions of sections 1886 (a) and (b) that are intended to restrain growth of hospital costs and to relieve the stress that increases in these costs put on the financial soundness of the Hospital Insurance Trust Fund.

B. *Statutory Provisions.* 1. *Summary.* Section 101(a) of Pub. L. 97–248 enacted a variety of provisions to contain the costs that hospitals incur in providing inpatient services. Section 1886(a) provides for expanding the existing "section 223" limits, which currently apply on a per diem basis only to the inpatient routine operating costs hospitals incur in providing routine services (primarily room, board, and routine nursing services). The expanded limits will apply on a per case basis to the operating costs of ancillary services, such as radiology and laboratory services, and the operating costs of special care, such as intensive or coronary care, as well as operating costs of routine services. Section 1886(a)(1)(B) requires these limits to be adjusted to account for differences between hospitals in the types of cases treated (case-mix).

Section 1886(b) provides for a new three-year control on hospital cost increases that is separate and different from the type of limit established under section 223. This provision requires that we establish a ceiling target level for the allowable rate of increase of hospitals' inpatient operating costs per case, and provides for both incentive payments for hospitals that keep their cost below the target, and penalties for hospitals that incur costs greater than the target.

Section 101(b) of Pub. L. 97–248 makes the new section 1886 effective for cost reporting periods beginning on or after October 1, 1982 and provides that, in order to accomplish this prompt effect of these provisions, regulations needed to implement them may be issued as final regulations without prior notice and comment. Further, section 101(b) exempts, until January 1, 1984, these necessary regulations from Office of Management and Budget (OMB) review of information collection requirements, as required under the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Section 101(b)(3) enacted section 1135(c) of the Social Security Act, which also requires us to develop, by December 31, 1982, proposals for legislation that would enable the Medicare program to reimburse participating providers (such as hospitals and skilled nursing facilities), on a prospective basis. (It is clear from the Conference Committee Report that the three-year rate of increase ceiling established under section 1886(b) is expected to end earlier

if prospective reimbursement for inpatient hospital services is implemented.) (H. R. Rep. No. 97–760, 97th Cong., 2d Sess. 421 (1982).)

Section 101(c) provides for a number of amendments to various sections of Title XVIII of the Social Security Act that are necessary to conform the provisions of those sections to the new requirements established under section 1886.

2. *Section 1886(a)—Total inpatient operating cost limits.* As noted above, section 1886(a) expands the section 223 hospital cost limits, currently applied to inpatient general routine operating costs, to include total inpatient operating costs, applied on an average cost-per-case basis, and adjusted for case mix. The statute specifies that the affected operating costs of inpatient hospital services include all routine operating costs, ancillary service operating costs, and special care unit operating costs. These new case-mix adjusted limits on inpatient operating costs per case are effective for hospital cost reporting periods beginning on or after October 1, 1982. In no case would reimbursement to a hospital on a cost-per-case basis be reduced below the allowable cost-per-case for the hospital's cost reporting period immediately preceding the first cost reporting period subject to the case-mix adjusted limits.

Section 1886(a) requires that rural hospitals (that is, hospitals that are not located in a Standard Metropolitan Statistical Area (SMSA)) in operation and having less than 50 beds at the time of enactment be exempt from the case-mix limits. In addition, section 1886(a)(2) requires that the Secretary provide, as he deems appropriate, exemptions, exceptions, and adjustments to the limits established under section 1886(a)(1)(A) to take into account:

(A) the special needs of sole community hospitals, of new hospitals, of risk basis health maintenance organizations, and of hospitals which provide atypical services or essential community services, and to take into account extraordinary circumstances beyond the hospital's control, medical and paramedical education costs, significantly fluctuating population in the service area of the hospital, and unusual labor costs,

(B) the special needs of psychiatric hospitals and of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title [title XVIII of the Social Security Act], and

(C) a decrease in the inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals which results in a significant distortion in the operating costs of inpatient hospital services.

Section 1886(a) also includes specific provisions on the methodology, for establishing case-mix adjusted limits. However, that methodology is not incorporated in these regulations. Instead, it is explained in detail in a separate notice published elsewhere in this issue of the **Federal Register.** therefore, we are not describing all those provisions here. However, one element of that methodology involves an index of increases in hospital wages and prices that is also used in calculating the rate of increase ceiling established under section 1886(b). See section IV of this preamble, below, for a discussion of that index.

3. *Section 1886(b)—Rate-of-increase ceiling.* The new three-year hospital rate of increase provision includes two elements in common with the case-mix adjusted limits—the rate of increase ceiling is applied to the same inpatient operating costs per case as are subject to the expanded section 223 cost limits, and the rate of increase is determined on the basis of the same index of increases in hospital wages and prices. However, we wish to make clear that this ceiling is separate and different from the section 223 type of limit, and applies in addition to the limits established under 1886(a). Hospitals may *not* receive reimbursement in excess of the amount determined to be allowable under section 1886(a).

Section 1886(b) provides that payment for inpatient hospital services will be determined on the basis of the relation of a hospital's costs to a ceiling determined by a target rate of increase in operating costs per case. (In accordance with the statute, payments made on this basis will be subject to the coinsurance and deductible requirements of section 1813 of the Act, but will be made without regard to the provisions of section 1814(b) which requires payment of charges when they are lower than costs.) This ceiling is expressed as a target amount based on the percentage rate of increase in the hospital wage and price index (market basket index) plus one percentage point. In the first year subject to the ceiling (that is, to cost reporting periods beginning on or after October 1, 1982), a target amount will be established for each hospital equal to the hospital's allowable operating costs per case for the immediately preceding 12-month cost reporting period, increased by the target rate percentage. After the first year, a hospital's inpatient operating cost per case target amount would be computed by increasing the previous year's target amount by the current year's target rate percentage increase.

Section 1886(b)(5) specifies that, in the case of any hospital having a cost reporting period of other than 12-months in length, the Secretary shall determine the 12-month period that will be used for purposes of setting a rate-of-increase ceiling.

A hospital that incurs allowable costs per case below its target amount will be paid its costs plus the lesser of 5 percent of the target amount or 50 percent of the difference between its actual costs and target amount. A hospital that incurs allowable cost per case above its target amount will be allowed the target amount plus 25 percent of its cost in excess of its target amount for the first two years, and none of the excess cost in the third year. In no event could payment under this provision exceed the amount payable under the cost limits established under section 1886(a).

Section 1886(b)(4) provides for exemptions from, and exceptions and adjustments to, the rate of increase ceiling. The Conference Committee specified that adjustments could have the effect of either increasing or decreasing the target payment amount. (H.R. Rep. No. 97–760. 97th Cong., 2d Sess. 420 (1982).) The principal intention in authorizing exemptions, exceptions, and adjustments is to take into account factors that would distort either a hospital's base period or rate of cost increase during the 3-year period to which the rate of increase provisions are applicable. Examples of such factors include significant changes in a hospital's case-mix in a particular year when compared to the base year, extraordinary circumstances beyond the hospital's control, and a reduction in a hospital's costs resulting from cutting back on the kinds of services directly provided to patients—for example, as the result of leasing out its clinical laboratory.

The rate of increase ceiling established by section 1886(b) would not apply to any hospital cost reporting period beginning on or after October 1, 1985. (Further, if prospective reimbursement is established for inpatient hospital services furnished during cost reporting periods beginning before that date, the rate of increase ceiling would be terminated before the full three years elapsed.)

In addition, section 1886(b)(6) provides that, in the case of hospitals that withdraw from participation in Social Security (Old Age, Survivors, Disability, and Health Insurance, or OASDHI program) after August 15, 1982, the Secretary must reduce Medicare payments to reflect cost savings the hospitals achieve through withdrawal.

In computing the reduction, savings are to be offset by expenditures a hospital incurs for substitute pension, health, and insurance benefits comparable to the foregone Social Security benefits.

C. *Purpose of These Interim Final Regulations.* These regulations implement section 1886(a) by making changes to 42 CFR 405.460 that are needed to make the exceptions available to hospitals consistent with the new case-mix adjusted cost limits published elsewhere in this issue of the **Federal Register.** The amended regulations specify that the exception to the hospital cost limits based on intensity of routine care is available only for cost reporting periods in which hospitals are subject to routine per diem cost limits. These regulations also allow a hospital to obtain an exception to the case-mix-adjusted hospital cost limits if it can show that it has taken actions that have substantially altered its mix of patients treated. These changes are effective for cost reporting periods beginning on or after October 1, 1982.

These regulations implement section 1886(b) by establishing a new section 42 CFR 405.463, entitled "Limitations on Rate of Cost Increases". These regulations specify how the statutorily prescribed target rates will be applied, and provide for appropriate exemptions, exceptions, and adjustments. These regulations are effective for cost reporting periods beginning on or after October 1, 1982, and before October 1, 1985.

II. Changes to Regulations on Limitations on Reimbursable Costs (42 CFR 405.460)

A. *Introduction.* As noted above, the current hospital cost limits, effective for cost reporting periods ending after September 30, 1981, apply only to inpatient general routine operating costs, which generally include primarily the operating costs hospitals incur to furnish room, board, and routine nursing services. These limits do not apply to the cost of ancilliary services (for example, radiology or laboratory services), and cost of special care units, such as intensive or coronary care units. The limits also exclude capital-related costs (that is, costs classified in the depreciation accounts on a hospital's Medicare cost report), malpractice insurance costs, and costs a hospital allocates to the interns and residents (in approved programs) or nursing school cost centers on its Medicare cost report. The current limits, like those in previous cost limit schedules, are applied on a per diem basis and do not include an explicit adjustment for differences in inpatient routine care costs that result from variations in the type and mix of cases treated by various hospitals (that is, case mix differences).

However, in accordance with the new section 1886(a) of the Social Security Act, we are now implementing a new system of limits on hospital inpatient operating costs for cost reporting periods beginning on or after October 1, 1982, which are applied on a per discharge rather than per diem basis, and are explicitly adjusted to reflect the case mix of each hospital. These limits are described in detail in a separate document published elsewhere in this issue of the **Federal Register.**

To make our regulations at 42 CFR 405.460 consistent with section 1886(a) of the Social Security Act, and with the methodology and scope of the new hospital cost limits, it is necessary to make certain changes in those regulations. However, we wish to note that most provisions of those regulations are not inconsistent with the new cost limits established under section 1886(a), and will continue to remain in effect under section 1886(a). Thus, provisions at 42 CFR 405.460(e) for exempting sole community hospitals, new providers, and risk-basis health maintenance organizations from the section 223 cost limits will remain in effect. Similarly, provisions at § 405.460(f) for allowing a hospital to have its cost limit adjusted upwards on an exception basis due to allowable costs attributable to atypical services, extraordinary circumstances, fluctuating population, medical and paramedical education, and unusual labor costs will remain in effect. The provision will also remain in effect under which an exception is provided where a hospital providing essential community services would be rendered insolvent through application of the limits.

B. *Exemption for Rural Hospitals with Less than 50 Beds.* As mentioned above, the statute specifically states (section 1886(a)(3)) that these cost limits, effective for cost reporting periods beginning on or after October 1, 1982, shall not apply to any hospital that is located outside an SMSA, has less than 50 beds, and was in operation (with less than 50 beds) on September 3, 1982. (The official SMSA designations are maintained and published periodically by the Executive Office of Management and Budget.) Therefore, we are adding this group of hospitals to those exempted from the cost limits under the regulations at § 405.460(e). A hospital that may meet the criteria for this exemption may request such exemption under the rules at § 405.460(c) by filing a request with its Medicare fiscal intermediary no later than 180 days following the date on the intermediary's notice of program reimbursement. For purposes of this exemption, the definition of "bed" shall be the same as that currently used under the routine hospital cost limits (See § 2510.5, HCFA Pub. 15–1, Provider Reimbursement Manual).

C. *Exception for More Intensive Routine Care.* We have previously restricted hospital cost limits to inpatient general routine operating costs because the types of general routine services furnished by hospitals are comparatively uniform. The general routine cost limits, therefore, have been applied only to the cost of services that are not likely to vary widely, in either scope or intensity, because of factors unrelated to efficiency, such as variations in case mix.

Although inpatient general routine care services are relatively uniform among hospitals generally, we have recognized that some hospitals may provide more intensive routine services than others and that the hospitals may have shorter-than-average lengths of stay with higher per diem costs. The Medicare regulations at 42 CFR 405.460(f)(5) provide an exception to the limits for hospitals that can demonstrate that their excess per diem costs result from the provision of more intensive routine care, and result in shorter average lengths of stay, than other hospitals that have a reasonably similar mix of patients. We believe that under the system of per diem limits on routine costs (in conjunction with a days-of-care adjustment included in the routine cost limits methodology) the greater intensity of care exception has been adequate to account for cost differences in the intensity of routine services.

Since the new limits on total inpatient operating costs will be applied on a per discharge basis and will be directly adjusted to reflect individual hospital differences in case-mix, we do not believe the exception for hospitals with higher per diem costs resulting from more intensive routine care should be available to hospitals covered by those limits. We believe this exception will not be needed by hospitals subject to the new limits because a cost per discharge system of limits will reflect differences in intensity of care. A hospital will not be disadvantaged under the new limits if it produces equivalent services over a shorter average length of stay. Therefore, we are amending the regulations at 42 CFR 405.460(f)(5) to state explicitly that the exception provided by that section is available only for hospital cost reporting

periods that are subject to the routine per diem limits. Since the new limits will be effective for cost reporting periods beginning on or after October 1, 1982, the exception will be available to hospitals only for cost reporting periods that begin before that date (that is, cost reporting periods for which the current limits are effective).

D. *Exception for Changes in Case-Mix Due to Changes in Services.* As explained in the notice setting forth the new cost limits, under the new system each hospital's limit will be adjusted by a case-mix index that is specific to the hospital. This index is derived in part from data contained in bills the hospital submits to its Medicare intermediary. In general, we expect that there will be a time lag between the most recent year for which complete billing data are available, and the year in which a case-mix index based on the data are used to calculate a hospital's limit.

We do not believe this time lag will have a measurable effect on the overall accuracy of the new limits, since the type and mix of patients treated by most hospitals should remain relatively stable from year to year. That is, hospitals as a group tend to repeat the same pattern of case complexity in successive periods. However, some hospitals may experience significant and abrupt changes in their case mix because they have added or discontinued services. For example, if a community hospital were to open a special new facility such as a regional burn center, the added services offered in this unit could radically change the hospital's type and mix of patients. Under these circumstances, the lag in receipt and processing of the data described above could result in inaccuracy in the hospital's case-mix index, and in its limit.

To deal with this problem, we are adding a new exception for hospitals that incur costs that exceed the new limits due to significant and abrupt changes in case mix that result from the addition or discontinuation of services. A hospital that wishes to obtain an exception to the limits on this basis is required to submit to HCFA, in a specified format, a record of all Medicare discharges for the cost reporting period to which the limits are applied. To permit processing of these records, they must be submitted on magnetic tape according to specifications and using ICD–9–CM coding. To have its exception request considered, a provider will have to submit the request and the discharge records needed to evaluate the request within the time limit for exception requests now specified in 42 CFR 405.460(c), i.e., within 180 days of the date on the intermediary's notice of program reimbursement.

Based on these records, HCFA will then recompute the hospital's case-mix index. HCFA will use the recomputed case-mix index, rather than the index published in the schedule of limits then in effect, to calculate the hospital's limit for the subject cost reporting period. Because the recomputed index will be more current than the index in the published schedule, and will be based on data from 100 percent of the hospital's Medicare discharges, rather than from a sample of discharges, we will apply the new index in calculating the hospital's limit, regardless of whether it results in a limit for the particular hospital that is higher or lower than the limit based on the published index.

Since the new exception is available only to hospitals covered by the new limits, we are making this exception effective only for cost reporting periods beginning on or after October 1, 1982.

E. Other exemptions, exceptions, and adjustments. Section 1886(a)(2) directs the establishment of exemptions, exceptions, and adjustments to the limits as deemed necessary. In addition to the items covered above, section 1886(a)(2)(B) mentions the special needs of psychiatric hospitals and of public or other hospitals that serve a disproportionate number of patients who have low income or are entitled to benefits under Medicare.

We have not included specific provisions for those exemptions or exceptions in these regulations. In the case of psychiatric hospitals, we believe that the exclusion of long-term-care hospitals from the system of case-mix adjusted cost limits will cover most psychiatric hospitals. We believe the exception for atypical services contained in current regulations will allow us to appropriately recognize special needs of short-term psychiatric hospitals which participate in Medicare.

We have not now made any special provision for public hospitals or other hospitals that treat a disproportionate number of low income or Medicare patients, because we do not now have data that enable us to determine the extent to which special consideration is warranted, or the type of provision that may be appropriate. We have not, for example, been able to identify generally higher Medicare inpatient operating costs in thee hospitals as a group. A report reviewing the section 223 routine cost limits prepared for HCFA by Applied Management Sciences found that Medicare patients apparently utilize relatively fewer routine care resources per day than do non-Medicare patients. Further, the study found that hospitals with high rates of Medicare utilization tend to have lower routine per diem costs, but a somewhat faster rate of increase in those costs.

We have also made some preliminary analysis of Medicare inpatient operating costs per case adjusted for case mix and have not found a significant association between higher Medicare cost per case and either public ownership or the proportion of low income patients after considering other factors (e.g. area wages) already recognized in the cost limits methodology. For example, including government ownership in a regression analysis along with other variables now present in the cost limits methodology indicated a small negative relationship. We did not consider the results conclusive. Using a ratio of Medicaid utilization as an indicator of low-income patients showed no significant influence on cost per case.

The conference agreement follows the Senate amendment on this provision. The Report of the Senate Committee on Finance (S. Rept. No. 97–494) directed the Secretary to determine the extent to which the limits for public hospitals and other institutions should be adjusted to take into account the extra costs that they necessarily incur in treating low income patients. Since it is unclear at this point what, if any, cost effects occur as a result of public ownership or what changes may be appropriate, we have not included a special provision for public hospitals.

Although we are not now including any specific provision for these hospitals, we do expect to examine this issue further to determine what action would be appropriate with respect to public hospitals or other hospitals that serve a disproportionate number of low income or Medicare patients. To the extent that we find that either some adjustment for these hospitals as a class, or an exception for individual hospitals, is warranted, we will issue a revision to the regulations or notices as appropriate. We wish to invite specific comment, from hospitals, hospital associations, and others knowledgeable on this issue, on differences in the cost of services to Medicare beneficiaries in these hospitals, and on potential methods for recognizing their effects.

As noted above, section 1886(a)(2)(C) provides for an additional adjustment to take into account a decrease in the inpatient services that a hospital provides, which are customarily provided directly by similar hospitals,

and that results in a significant distortion in operating costs. This provision reflects congressional concern that a hospital could create an appearance of reduced costs and compromise the limits by cutting back on services that would otherwise have been provided directly. Such actions may include, but are not limited to, closing a special care unit or changing the arrangements under which such services may be furnished such as by leasing out a department. These changes would result in costs lower than those that would have otherwise been incurred for purposes of comparison to the limit. Our regulations provide that in these cases, an adjustment to the operating costs may be made as necessary to take these factors into account.

F. *Prospective Application of Limits.* We are amending 42 CFR 405.460(a) by adding a paragraph setting forth the scope and authority of these regulations, and by adding a sentence to the section setting forth the general principle of the limits to state that the limits established under section 1861(v) of the Act will be applied on a prospective basis. When we revised the regulations at 42 CFR 405.460 on June 1, 1979 (see 44 FR 31804), reference to the prospectivity of the limits was inadvertently omitted. We are now inserting language in the regulation to make it clear that the limits are to be applied prospectively. These changes are purely technical, and have no effect on the way we develop or apply the limits.

III. Regulations Establishing Rate of Cost Increase Ceilings

A. *Introduction.* Section 1886(b) of the Social Security Act (enacted on September 3, 1982, by section 101(a) of Pub. L. 97–248) authorizes, for a three-year period only, a limitation on allowable rates of increase for hospital inpatient operating costs. This section provides incentives for hospitals to keep increases in their inpatient operating costs per case below an annual ceiling expressed as a target amount. A hospital that keeps its costs per case below its target amount per case may be paid an amount in addition to its allowable cost per case equal to 50 percent of the difference between its actual cost per case and its target amount, up to 5 percent of the target amount. However, a hospital that has actual costs per case that exceed its target amount will be paid its target amount plus 25 percent of its costs above its target amount during the first two cost reporting years under this provision, and will be paid none of those costs in excess of the target amount in the third cost reporting period under this provision.

The rate of increase ceiling is distinct and separate from the section 223 cost limits established under sections 1861(v) and 1886(a) of the Act. Those limits are based on group means and are applied directly to the inpatient operating costs per case that a hospital incurs during a particular cost reporting period. The rate of increase ceiling, on the other hand, limits the amount by which a hospital's inpatient operating costs may increase from one cost reporting period to the next. A hospital's costs will be subject to both types of limitation. For example, a hospital may have a small increase in inpatient operating costs from one cost reporting period to the next and be eligible for an additional payment under section 1886(b). However, the total reimbursement due the hospital, both for inpatient operating costs and the incentive payment, will still be screened against the 223 limits, and the cost limit will determine the maximum reimbursement. Similarly, a hospital with low operating costs per case could have actual operating costs below the 223 limits, but, if its costs exceed the applicable target amount, the excess costs would be disallowed to the extent prescribed by the ceiling.

B. *Cost Reporting Periods Subject to the Ceiling.* 1. *Periods of other than 12 months in length.* The methods in the law are uniformly described in terms of 12-month cost reporting periods for both the base year on which the initial ceiling would be computed and for the three years intended to be subject to the ceiling. Section 1886(b)(5) makes the only statutory reference to cost-reporting periods of other lengths, stating that, when a hospital does have such a reporting period, the Secretary will determine the 12-month period to be used for the ceiling.

There are two points at which the cost reporting period enters the determination of the ceiling. One cost reporting period is used as a base period for establishing the target amount for the first cost reporting period subject to the ceiling. Then, the target amount must be applied in determining the amount payable to a hospital for a particular cost reporting period. In both instances, it is important for both the accuracy and the equity of the ceiling that there be reasonable comparability between two cost reporting periods.

Cost reporting periods of other than 12 months result frequently from hospital mergers or changes of ownership. Usually such periods are shorter than 12 months in length. Very often two such periods happen in sequence, as one period is ended early (or late) due to sale or merger, and the next period is of whatever length is necessary to reconcile subsequent periods with the customary fiscal year of the owning entity. Short cost reporting periods also occur when a hospital enters or leaves the Medicare program.

These changes may result in cost reporting periods that are not comparable. For one thing, utilization, occupancy, case mix, and other factors such as services offered, and arrangements with suppliers, may be altered when hospitals are sold or merged. These changes may cause significant variation between cost reporting periods in measures such as average cost per case. For these reasons, we will not apply the rate of increase ceiling to cost-reporting periods of less than 12-months that occur along with a change in the operations of a hospital resulting from events such as merger, consolidation, or change of ownership. It is important to note that the determination as to whether the ceiling is applicable will be based on the effects that a transaction has on services a hospital furnishes, not on the type of transaction.

Where a reporting period of other than 12 months occurs along with a change in the operations of the hospital, and these events result in cost reporting periods in which services and costs are not comparable, the rate of increase ceiling would not apply. For example, Hospital A and Hospital B merge to form Hospital C. Hospital C offers a different range of services and services a different patient population than either Hospital A or Hospital B. In this case, the rate of increase ceiling would not apply.

However, sometimes hospitals elect, with intermediary approval, to make changes in their accounting cycles that are not related to a change in operations that would affect their inpatient operating costs per case. When a hospital does this, we will adjust the target percentage rate to reflect fewer months in the case of a short reporting period, using a monthly factor corresponding to the annual percentage rate and apply the ceiling. (We will also use such a monthly factor to make adjustments for cost reporting periods longer than 12 months.)

2. *The cost reporting period to be used as a base period.* The ceilings established under section 1886(b) must be initially set for each hospital on the basis of the allowable operating costs per case that a hospital incurs in its 12-month cost reporting period immediately preceding the first cost reporting period

subject to the ceiling. For hospitals that have consecutive 12-month periods, the base period is the 12-month cost reporting period beginning on or after October 1, 1981 (that is, the cost reporting period ending immediately prior to the first period subject to the ceiling).

C. *Procedures for Establishing the Target Amount to be Used as a Ceiling.* 1. *General procedure.* As noted above, the costs subject to the rate of increase ceiling are the same costs that are subject to the new limits on hospital inpatient operating costs per case established under section 1886(a). The target amount may be computed on a per discharge or per admission basis, as determined by HCFA. We will initially determine these costs on a per discharge basis in accordance with the methodology used to establish the new cost limits. (For purposes of applying the new case-mix adjusted limits and the rate of increase ceiling, intermediaries will use the definition of "discharge" is § 304.4 of the Provider Reimbursement Manual, HCFA Pub. 15–II–C.) (Under this definition, the transfer of a patient from one inpatient area to another does not constitute a discharge.)

In accordance with the statute, the operating costs included are:

- Routine operating costs, such as room, board, and routine nursing services;
- Ancillary service operating costs, such as the operating costs of radiology and laboratory department; and
- Special care unit operating costs.

Operating costs are defined in the notice establishing inpatient operating cost limits under section 1886(a) published elsewhere in this issue of the **Federal Register**. These costs exclude capital-related costs, malpractice insurance costs, and costs of approved medical and nursing education programs that are allocated to the intern and resident (in approved programs) and nursing school cost centers in the Medicare cost report. To establish the first year's ceiling, we will determine the allowable inpatient operating cost per case for a hospital's base period. This cost per case will be increased by a target rate percentage (equal to the market basket index, discussed below, plus one percentage point) to yield the hospital's target amount expressed in terms of cost per case. In subsequent years, the hospital's target amount will be determined by increasing the previous year's target amount by the target rate percentage for the applicable cost reporting period.

2. *The market basket index and target rate percentage.* Section 1886(b)(3)(B) requires that, in determining the rate of increase ceiling, the applicable percentage increase for any 12-month cost reporting period shall be equal to 1 percentage point plus the percentage, estimated by the Secretary, by which

> the cost of the mix of goods and services (including personnel costs but excluding non-operating costs) comprising routine, ancillary, and special care unit inpatient hospital services, based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in such inpatient hospital services, for such cost reporting period exceeds the cost of such mix of goods and services for the preceding 12-month cost reporting period.

As noted above, the case-mix adjusted limits established under 1886(a) must also use such an increase percentage. We will use the same data, methodology, and adjustment factors for both purposes.

We will base these wage and price adjustments on the market basket index of hospital wages and prices that we are using for the new hospital case-mix adjusted limits. Since July 1, 1979 the hospital cost limit schedules have incorporated such a market basket index to reflect changes in the prices of goods and services hospitals use in producing general inpatient routine services.

Under the rate-of-increase ceiling and the new case mix adjusted limits, we will use a market basket index to project rates of increase in total inpatient operating costs, rather than only inpatient routine operating costs. We have appropriately revised the market basket categories, and the weights assigned to each category, to reflect this change in the affected costs.

The revised market basket reflects two changes from the inpatient routine cost market basket that was included in the hospital cost limits notice published on September 30, 1981. The notice on the case-mix adjusted limits published elsewhere in this issue of the **Federal Register** gives a detailed discussion of the changes in and the technical background of the market basket index.

The categories of expenses we used to develop the revised market basket are based primarily on those used by the American Hospital Association (AHA) in its analysis of costs, and by the U.S. Department of Commerce in publishing price indexes by industry. The weights are based primarily on surveys by the AHA, and on the Department of Commerce's input-output studies.

Each notice setting forth a schedule of total inpatient operating cost limits will include a table of the rates of increase in the market basket, plus one percentage point, for each calendar year. That is, if the market basket increase for a particular calendar year is 8 percent, the percentage rate of increase for a cost reporting period corresponding to that calendar year would be 9 percent. For purposes of illustrating the determination of an initial rate-of-increase ceiling, let us assume that this 12-month period is the 12-month period immediately following the 12-month base period for a given hospital. We would determine the rate-of-increase ceiling target amount for the hospital by multiplying the inpatient operating cost per case for the base period by 1.09 (one plus the rate of increase).

Since the annual percentage rates will be published in the hospital cost limit notices for cost reporting periods beginning on or after October 1, 1982, we will use those notices instead of making a separate publication. Note that, since the cost limits are set prospectively, the table will include projected market basket indexes for future cost reporting periods. Rate-of-increase ceiling determinations will be made at the time of settlement on the basis of the most recently published market basket percentages.

D. Application of Target Rate Amounts in Determining Reimbursement. 1. *General procedure.* Congress incorporated an incentive feature in the rate-of-increase ceiling by establishing incentive payments as well as penalties, depending on whether a hospital's cost per case for cost reporting periods subject to the ceiling is less than or greater than the applicable target amount per case. Payments made under the rate of increase ceiling will take into account beneficiaries' deductible and coinsurance obligations under section 1813 of the Act, but, as specified in 1886(b)(1), will be determined without regard to section 1814(b) which requires payment to be made on the basis of charges when they are lower than reasonable costs.

After each affected cost reporting period, the Medicare intermediary will compare a hospital's actual allowable inpatient operating cost per case to its target amount. If the target amount is greater than actual cost, we will give the hospital an incentive payment with the hospital's total reimbursement, subject to the case-mix limits. If the target amount is less than actual cost, the hospital will be reimbursed for costs in excess of the target only to the extent allowed by the statute.

2. *Inpatient operating costs are not in excess of the target amount.* Section 1886(b)(1)(A) authorizes us to pay a hospital more than its otherwise allowable cost per case if it succeeds in

keeping its inpatient operating cost per case below the target amount. We will determine this on the basis of a comparison of incurred costs to a target amount derived as described above. If the hospital's actual cost is lower than its target amount, its reimbursement for inpatient operating costs will be whichever of the following is *least:*

- The inpatient operating cost per case plus 50 percent of the difference between that amount and the applicable target amount;
- The inpatient operating cost per case plus 5 percent of the target amount; or
- The hospital's allowable cost per case under the case-mix adjusted limits.

Example I

Hospital A has allowable inpatient operating costs per discharge as follows:

Cost Reporting Period and Cost Per Discharge

10/1/81–9/30/82—$1800
10/1/82–9/30/83—$1953

For the cost reporting period beginning 10/1/82 the applicable total inpatient operating cost (case-mix) limit is $1,975 per discharge, the market basket rate of increase is 8.5 percent, and the target rate of increase is 9.5 percent. (The target rate adjustment factor is therefore 1.095.)

Hospital A's target amount for the cost reporting period beginning 10/1/82 is $1971 ($1800×1.095).

The Medicare reimbursement per discharge for Hospital A would be the lowest of the following three amounts:

1. Actual cost plus 50 percent of the difference between actual and target cost per discharge.

$1971−$1953=$18.
$1953+(0.50×$18)=$1962.00.

2. Actual cost plus 5 percent of the target amount.

$1953+(0.05×$1971)=$2051.55.

3. Total inpatient operating cost (case-mix) limit=$1975.00.

Hospital A's Medicare reimbursement per discharge for the cost reporting period beginning 10/1/82 is $1,962.

Note.—Hospital A's target amount for the period beginning 10/1/83 will be $1971 increased by the target rate percentage for that period.

3. Inpatient operating costs are greater than the target amount. Section 1886(b)(1)(B) specifies that during the first two 12-month cost reporting periods subject to the rate of increase ceiling, a hospital may be paid the target amount plus 25 percent of allowable operating costs per case incurred in excess of its target rate amount per case (subject to the case-mix limits), and that, in the third cost reporting period subject to the ceiling, a hospital may not receive Medicare payment for any costs incurred in excess of its target amount.

For cost reporting periods beginning on or after October 1, 1982 and before October 1, 1984, we will determine reimbursement for a hospital that has actual costs in excess of its target amount on the basis of the lower of:

- The hospital's target amount plus 25 percent of the allowable inpatient operating costs per case in excess of that amount;
- The hospital's allowable cost per case under the case-mix adjusted limits.

For cost reporting periods beginning on or after October 1, 1984 and before October 1, 1985, reimbursement for a hospital that has actual cost in excess of the target amounts will be based on the lower of:

- The hospital's target amount per case; or
- The hospital's allowable cost per case under the case-mix adjusted limits.

Example II

Hospital B has allowable inpatient operating costs per discharge as follows:

Cost Reporting Period and Cost Per Discharge

10/1/81–9/30/82—$1800
10/1/82–9/30/83—$2000

For the cost reporting period beginning 10/1/82 the applicable total inpatient operating cost (case-mix) limit is $1,975 per discharge, the market basket rate of increase is 8.5 percent, and the target rate of increase is 9.5 percent. (The target rate adjustment factor is therefore 1.095.)

Hospital B's target amount for the cost reporting period beginning 10/1/82 is $1971 ($1800×1.095).

The Medicare reimbursement per discharge for Hospital B would be the lower of the following:

1. The target amount plus 25 percent of the excess actual costs.

$1971+0.25 ($2000−$1971)=$1978.25.

2. Total inpatient operating cost (case-mix) limit=$1975.00.

Hospital B's Medicare reimbursement per discharge for the cost reporting period beginning 10/1/82 is $1,975.

Example III

Hospital C has allowable inpatient operating costs per discharge of $2,000 for the cost reporting period beginning 1/1/85.

For this cost reporting period, the applicable total cost limit is $2100 per discharge, the market basket rate of increase is 8.7 percent, and the target rate of increase is 9.7 percent. (The target rate adjustment factor is therefore 1.097.) The applicable target amount per discharge for the previous cost reporting period is $1,732.

Hospital C's target amount for the cost reporting period beginning 1/1/85 is $1,900 ($1732×1.097).

The Medicare reimbursement per discharge for Hospital C would be the lower of the following:

1. The target amount of $1900.
2. The case-mix limit of $2100.

Hospital C's Medicare reimbursement per discharge for the cost reporting period beginning 1/1/85 is $1,900.

E. Exemptions, Exceptions, and Adjustment. 1. General process. As noted above, section 1886(b)(4) provides for exemptions from, or exceptions and adjustments to, the rate of increase ceiling in situations in which there is a distortion in a hospital's operating costs in either its base period or a cost reporting period subject to the ceiling. Such situations include:

- Extraordinary circumstances or events beyond the hospital's control;
- Changes in case-mix; or
- A decrease in inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals.

A hospital may request an exemption from or exception to the rate of increase ceiling in a manner similar to that used in regard to hospital cost limits established under section 405.460. An exemption excludes a hospital completely from application of the ceiling for a specified cost reporting period. An exception allows a hospital to have its ceiling adjusted to take costs into account that would otherwise be disallowed by application of the ceiling.

The hospital must make the request for an exemption or exception to its fiscal intermediary no later than 180 days from the date on the intermediary's notice of program reimbursement. The intermediary will review the request and forward it to HCFA with a recommendation as to appropriate action. HCFA will review the request and the intermediary's recommendation and respond to the intermediary within 180 days from the date the package is received by HCFA. The intermediary will notify the hospital of HCFA's decision.

HCFA's decision on a request for an exemption or exception may be appealed by the hospital to the Provider Reimbursement Review Board (PRRB) under the regulations at 42 CFR Part 405, Subpart R. The time limit for applying for PRRB review may be extended in consideration of the time taken by HCFA reviewing and responding to the hospital's request.

2. *Exemptions.* We are only allowing two classes of hospitals to be exempted from the rate-of-increase ceiling—new hospitals and risk-basis health maintenance organizations (HMOs).

New hospitals. We are allowing new hospitals to be exempted from this ceiling because they commonly have unusually high operating costs per case in the first year of operation. This results from a combination of effects,

especially low utilization rates and start-up costs. Therefore, a base period reflecting such distorted per case costs would not provide a good basis for applying the ceiling. Such hospitals' costs per case typically would be expected to decline steadily during the initial phase of operation.

For purposes of this exemption, we will consider a hospital new if it has operated as the type of provider for which it is certified for Medicare participation for less than three full years. We would not use a cost reporting period for a base period unless it began at least two years after the hospital accepted its first patient. This exemption would expire at the end of the first such acceptable base period.

Risk-basis HMOs. We are allowing risk-basis HMOs to be exempted from this ceiling because their established reimbursement method includes incentives and limitations that are incompatible with this system. (See 42 CFR 405.2049 through 405.2054 for regulations governing reimbursement to risk-basis HMOs.)

3. *Exceptions.* We are establishing two types of exceptions under which a hospital may request to have its operating costs per discharge adjusted for purposes of applying the rate-of-increase ceiling. We will make an appropriate adjustment, either upward or downward, to a hospital's inpatient operating costs in the base period or subject period to the extent that those costs are reasonable, attributable to the circumstances specified, separately identified by the hospital, and verified by the intermediary.

Extraordinary circumstances. This criterion covers situations in which a hospital incurs unusual costs per case in a particular cost reporting period due to extraordinary circumstances beyond its control. Such circumstances may include strikes, fires, earthquakes, floods, or other unusual occurrences with substantial cost effects.

Change in case mix. This criterion covers situations in which either addition or discontinuation of services furnished by a hospital results in significant change in costs per case. In requesting an adjustment under this criterion, a hospital is required to submit data on both the nature of the case mix change and the resulting effect on costs.

4. Adjustment. We expect that it may be necessary to make an adjustment to inpatient operating costs in either the base period or a period that is subject to the rate of increase ceiling to take into account factors such as a decrease in inpatient hospital services that would distort the comparison of costs per case between cost reporting periods. A decrease in hospital services, such as closing a special care unit, or changing the arrangements under which a particular service is furnished, such as leasing a department, are examples of situations with such effects. In these and other cases, we will adjust the amount of inpatient operating costs considered in establishing cost per discharge in order to maintain the comparability of cost between periods.

increased hospital admissions. The Conference Committee anticipated that the Secretary "will give consideration to making an adjustment where a hospital manipulates admissions or discharges in order to maximize reimbursement."

To protect against the possibility of abuse, the regulations allow HCFA to adjust the amount of operating costs considered in establishing cost per case to offset any unwarranted increase in or other manipulation of discharges undertaken by hospitals for the purpose of increasing reimbursement.

HCFA currently maintains records of beneficiary admissions and discharges and will use that data base to develop screens by which hospital admission practices will be monitored. If the incentives created by the regulation appear to have contributed to an industrywide increase in admission rate above that included in current projections, HCFA will consider revision of the formula used to establish per admission targets to eliminate this incentive consistent with Congressional intent.

Because the Medicare inpatient routine nursing salary cost differential does not apply in the cost reporting periods that will be subject to rate of increase ceilings, we must adjust base period costs to remove the effect of this differential. The new regulations set forth below specify that we will make this adjustment.

We are not yet making adjustments of payments to hospitals that withdraw from Social Security, as required by section 1886(b)(6). There are several technical difficulties in determining the most appropriate and effective means of making such adjustments. When we have resolved these issues, we will publish an appropriate notice in the **Federal Register** describing the basis on which these adjustments will be made.

IV. Impact Analysis

A. *Executive Order 12291.* Section 1(b) of Executive Order 12291 states that a major rule is one that will:

(1) Have an annual effect on the economy of $100 million or more;

(2) Result in a major increase in costs or prices for consumers, individual industries, or government agencies, or geographic regions; or

(3) Have 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.

We estimate that as a result of implementation of these new case-mix adjusted hospital cost limits (described in a separate document published

We will also make adjustments where appropriate based on increases in Medicare admissions. Under the reimbursement system established by Pub. L. 97–248, a hospital may have an incentive to increase its number of Medicare patients. For example, a hospital that has costs less than the target amount will receive an increased payment per discharge above its actual costs. We are concerned that some hospitals may promote the increased admission of Medicare patients to take advantage of this aspect of the reimbursement system. Such action would be contrary to the intent of the legislation, which was to reward efficient operation, not to stimulate

elsewhere in this issue of the **Federal Register**) and the rate of increase ceiling implemented by this final rule, net savings over projected expenditures for inpatient hospital services under the current routine cost limits will increase by $480 million in FY 1983, with a three-year savings of more than $5 billion, as follows:

SAVINGS OVER CURRENT ROUTINE COST LIMITS [1]

[In millions]

Fiscal year	Case-mix adjusted limits	Rate of increase ceiling	Combined savings
1983	$75	$405	480
1984	405	1,085	1,490
1985	1,030	2,020	3,050
Total	1,510	3,510	5,020

[1] We estimate that the current routine cost limits would result in savings of $333 million for fiscal year 1983, $376 million for fiscal year 1984, and $426 million for fiscal year 1985.

Although the new rate of increase ceiling will have an annual effect on the economy of $100 million or more, we have determined this impact will be caused by section 101 of Pub. L. 97–248, which requires imposition of the ceiling, rather than by this rule, which merely implements the statutory provisions. We have made this determination because the major features of the rate of increase ceiling are specified in the statute, and we do not have administrative discretion to develop alternatives to them. While the statute does allow the

Secretary administrative discretion with respect to certain features of the ceiling provisions, these discretionary features will not have an impact of $100 million or more, or meet the other threshold criteria of the Order. Therefore, a regulatory impact analysis is not required. (See the cost limit notice published elsewhere in this issue of the **Federal Register** for a discussion of the effects of the new case-mix adjusted cost limits.) However, the preamble to this rule describes the expected impact of the rule and ways to mitigate unnecessary cost, and constitutes a regulatory impact analysis.

B. *Regulatory Flexibility Act.* The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this final rule will not, in itself, result in a significant impact on a substantial number of small entities.

Hospitals of less than 100 beds and all non-profit hospitals, regardless of size, are considered small entities for purposes of the Regulatory Flexibility Act. Although rural hospitals of less than 50 beds are exempted by law from the case-mix limits on total inpatient operating costs, they are not exempt from the rate-of-increase ceiling. Both the cost limits and the ceiling will clearly limit the revenues of a large number of small entities. Overall the $2 billion fiscal year 1985 impact is only about 1 percent of total hospital revenues. The impact on individual hospitals will vary. However, any adverse consequences of this impact can be avoided through the cost containment efforts we expect hospitals will make. Accordingly, we do not believe that a substantial number will actually experience a significant impact. In any event, any such impact will be the result of the statutory provisions (section 101(a) of Pub. L. 97–248), and not of the regulations that implement these provisions. Therefore, a regulatory flexibility analysis is not required.

Although a regulatory flexibility analysis is not required, we are aware that some hospitals may be concerned about the impact of these regulations. For the benefit of these hospitals, and to forestall any unnecessary concern regarding the effect of the regulations, the preamble presents an analysis which, taken as a whole, constitutes a regulatory flexibility analysis.

C. *Paperwork Reduction Act.* Information collection requirements imposed by regulations are normally subject to OMB review under section 3504(h) of Title 44, United States Code, as enacted by Pub. L. 96–511, the Paperwork Reduction Act of 1980. However, section 101(b)(2)(A) of Pub. L. 97–248 specifically states that the information collection requirements imposed by these regulations which implement section 101(a) of Pub. L. 97–248, are not subject to that review until January 1, 1984.

V. Waiver of Proposed Rulemaking and 30-Day Delay in Effective Date

Section 101 of Pub. L. 97–248 has an effective date of October 1, 1982. To have implementing regulations in place as close as possible to the effective date specified in the statute, we must publish these regulations in final form promptly. The Congress itself took note of this in section 101(b)(2)(A) by instructing the Secretary to issue final regulations, whether on an interim or other basis, by the effective date of the law. In our view, the statutory language is sufficiently clear to support implementation of these regulations on October 1, 1982.

We are providing an opportunity for public comment. We will consider comments submitted within 60 days of the publication of these regulations and make any regulatory amendments that are necessary. In view of this, and in consideration of the extent that Federal spending will be reduced by timely implementation of section 101, we believe that the delay necessary to publish proposed rulemaking would be contrary to the public interest.

For these reasons, we find good cause to waive proposed rulemaking procedures, and to issue these regulations in final form. For the same reasons, we find good cause to waive the usual 30-day delay in effective date, and to make these regulations effective for hospital cost reporting periods beginning on or after October 1, 1982.

VI. Other Required Information

A. *Public Comments.* Because of the large numbr of comments we receive, we cannot acknowledge or respond to them individually. However, we will consider any comments on this notice/rule that are received by the date specified in the "DATES" section. If as a result of public comments we conclude that changes in these interim final regulations are needed, we will include these changes in the final regulations described in item B below.

B. *Publication of final regulations.* Section 101(b)(1) of Pub. L. 97–248 specifically requires the Secretary of HHS to first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be needed to implement sections 1886(a) and (b) of the Social Security Act on a timely basis. This legislation further requires that if these regulations are promulgated on an interim final basis, the Secretary shall provide an opportunity for public comment and appropriate revision of the regulations, so that they are not on an interim basis later than March 31, 1983.

To comply with these requirements, we are publishing this rule on an interim final basis. As required by the law, we will consider all public comments we receive on the rule, determine whether changes in these interim regulations are needed, and publish final regulations implementing sections 1886(a) and (b) by March 31, 1983.

C. List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-stage renal disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

42 CFR Chapter IV is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

42 CFR Part 405 is amended as set forth below:

1. The table of contents for Part 405 is amended by revising the title of Subpart D, adding a new § 405.463 under Subpart D to read as follows:

* * * * *

Subpart D—Principles of Reimbursement for Providers, Outpatient Dialysis, and Services by Hospital-Based Physicians

* * * * *

Sec.
405.463 Ceiling on rate of hospital cost increases.

* * * * *

2. The authority citation for Subpart D is revised to read as follows:

Authority.—Secs. 1102, 1814(b), 1833(a), 1861(v), 1871, 1881, and 1886 of the Social Security Act; 42 U.S.C. 1392, 1395f, 1395l, 1395x(v), 1395hh, 1395rr, and 1395ww.

3. Section 405.460 is amended by revising paragraphs (a), (b), (e), the uncoded introductory material of paragraph (f), and paragraph (f)(5), and by adding new paragraphs (f)(9) and (h), to read as follows:

§ 405.460 Limitations on reimbursable costs.

(a) *Introduction.* (1) *Scope.* This

section implements section 1861(v)(1)(A) of the Social Security Act, by setting forth the general rules under which HCFA may establish limits on provider costs recognized as reasonable in determining Medicare program payments, and sections 1861(v)(7)(B) and 1886(a) of the Social Security Act, by setting forth the general rules under which HCFA may establish limits on the operating costs of inpatient hospital services that are recognized as reasonable in determining Medicare program payments. This section also sets forth rules governing exemptions, exceptions, and adjustments to limits established under this section that HCFA may make as appropriate in consideration of special needs or situations of particular providers.

(2) *General principle.* Reimbursable provider costs may not exceed the costs estimated by HCFA to be necessary for the efficient delivery of needed health services. HCFA may establish estimated cost limits for direct or indirect overall costs or for costs of specific items or services or groups of items or services. These limits will be imposed prospectively and may be calculated on a per admission, per discharge, per diem, per visit, or other basis.

(b) *Procedure for establishing limits.* (1) In establishing limits under this section, HCFA may classify providers by type of provider (e.g., hospitals, skilled nursing facilities, and home health agencies) and by any other factors HCFA finds appropriate and practical, including:

(i) Type of services furnished;

(ii) Geographical area where services are furnished, allowing for grouping of noncontiguous areas having similar demographic and economic characteristics;

(iii) Size of institution;

(iv) Nature and mix of services furnished; or

(v) Type and mix of patients treated.

(2) Estimates of the costs necessary for efficient delivery of health services may be based on cost reports or other data providing indicators of current costs. Current and past period data will be adjusted to arrive at estimated costs for the prospective periods to which limits are being applied.

(3) Prior to the beginning of a cost period to which revised limits will be applied, HCFA will publish a notice in the **Federal Register**, establishing cost limits and explaining the basis on which they were calculated.

* * * * *

(e) *Exemptions.* Exemptions to the limits imposed under this section may be granted in the following circumstances:

(1) *Sole community hospital.* The hospital, by reason of factors such as isolated location or absence of other hospitals is the sole source of such care reasonably available to beneficiaries.

(2) *New provider.* The provider of inpatient services has operated as the type of provider (or the equivalent) for which it is certified for Medicare, under present and previous ownership, for less than 3 full years. An exemption granted under this paragraph expires at the end of the provider's first cost reporting period beginning at least 2 years after the provider accepts its first patient.

(3) *Risk-basis HMO.* The items or services are furnished to beneficiaries enrolled in an HMO by a provider that is either owned or operated by a risk-basis HMO or related to a risk-basis HMO by common ownership or control (see § 405.2050(c)).

(4) *Rural hospital with less than 50 beds.* The hospital:

(i) Was in operation with less than 50 beds as of September 3, 1982;

(ii) Has less than 50 beds throughout the applicable cost reporting period; and

(iii) Is outside the boundaries of all Standard Metropolitan Statistical Areas as designated by the Executive Office of Management and Budget.

(f) *Exceptions.* Limits established under this section may be adjusted upward for a provider under the circumstances specified in paragraphs (f) (1) through (8) of this section, and may be adjusted upward or downward under the circumstances specified in paragraph (f)(9) of this section. An adjustment will be made only to the extent the costs are reasonable, attributable to the circumstances specified, separately identified by the provider, and verified by the intermediary.

* * * * *

(5) *More intensive routine care for cost reporting periods beginning before October 1, 1982.* The hospital:

(i) Is subject to per diem limits on inpatient general routine operating cost issued under paragraph (b)(3) of this section;

(ii) Furnishes a greater intensity of inpatient general routine care than other hospitals having a reasonably similar mix of patients; and

(iii) Shows that the more intensive care results in a shorter average length of stay and higher per unit costs than in comparable hospitals;

* * * * *

(9) *Changes in case mix.* The hospital:

(i) Is subject to limits issued under paragraph (b)(3) of this section that are calculated by use of a case mix index;

(ii) Has added or discontinued services in a year after the year represented in the discharge data used to establish the limits described in paragraph (f)(9)(i) of this section;

(iii) Has experienced a significant and abrupt change in case mix as a result of the addition or deletion of services; and

(iv) Submits discharge data, in the format required by HCFA, for Medicare discharges in the cost reporting period for which the exception is requested.

* * * * *

(h) *Adjustments.* HCFA may adjust the amount of a hospital's inpatient operating costs to take into account factors which could result in a significant distortion in the operating costs of inpatient hospital services. Such factors could include a decrease in the inpatient services that a hospital provides that are customarily provided directly by similar hospitals, or the manipulation of discharges to increase reimbursement. A decrease in inpatient services could result from changes that include, but are not limited to, such actions as closing a special care unit or changing the arrangements under which such services may be furnished, such as leasing a department.

4. A new § 405.463 is added to read as follows:

§ 405.463 Ceiling on rate of hospital cost increases.

(a) *Introduction.* (1) *Scope.* This section implements section 1886(b) of the Social Security Act, establishing a ceiling on the rate of increase of operating costs per case for inpatient hospital services that will be recognized as reasonable for purposes of determining Medicare reimbursement. This ceiling on allowable rate of cost increases applies to hospital cost reporting periods beginning on or after October 1, 1982 and before October 1, 1985, and is applied in addition to the limitations on reasonable cost established under § 405.460. This section also sets forth rules governing exemptions from, and exceptions and adjustments to the ceiling.

(2) *Applicability.* This section is not applicable to hospitals reimbursed in accordance with section 1814(b)(3) of the Act, or under State reimbursement control systems that have been approved under section 1886(c) of the Act.

(3) *General principles.* (i) The intermediary will determine a target amount of inpatient operating cost per case for any 12-month cost reporting period subject to this provision, based on a rate of cost increase for hospital

inpatient operating costs per case equal to the market basket percentage rate of increase for that period plus one percentage point.

(ii) HCFA will recognize a hospital's operating costs of furnishing inpatient hospital services as reasonable under this paragraph, subject to the cost limits established under §405.460, based on the comparison of the hospital's actual cost per case to the ceiling determined by the hospital's target amount.

(b) *Cost-reporting periods subject to the rate of increase ceiling.* (1) *Base period.* Each hospital's initial ceiling will be based on allowable inpatient operating costs per case incurred in the 12-month cost reporting period immediately preceding the first cost reporting period subject to ceilings established under this section, except that, when the immediately preceding cost reporting period is a short reporting period (fewer than 12 months) the first 12-month period ending after October 1, 1982 will be the base period.

(2) *Periods subject to the ceiling.* Ceilings established under this section will be applied to all full 12-month cost reporting periods that:

(i) Immediately follow either a base period as described in paragraph (b)(1) of this section, or another 12-month cost reporting period subject to the ceiling; and

(ii) Begin on or after October 1, 1982 and before October 1, 1985.

(3) *Periods other than 12 months.* Ceilings established under this section will not apply to cost reporting periods of fewer than 12 months that occur along with a change in operations of the facility as a result of changes in ownership, merger, or consolidation. However, ceilings will apply to cost reporting periods of fewer than 12 months which result solely from the approval of a hospital's request for a change in accounting cycle. In the case of such periods, the applicable percentage rate of increase will be adjusted downward by a monthly factor corresponding to the annual percentage rate to reflect fewer months. Ceilings established under this section will apply to cost reporting periods of greater than 12 months with the percentage rate of increase adjusted upward by a monthly factor corresponding to the annual percentage rate to reflect the additional months.

(c) *Procedure for establishing the ceiling (target amount).* (1) *Costs subject to the ceiling.* The cost per case ceiling established under this section applies to operating costs incurred by a hospital in furnishing inpatient hospital services. These operating costs *include* operating costs of routine services (as described in § 405.158(c)), ancillary service operating costs, and special care unit operating costs. These operating costs *exclude* the costs of malpractice insurance, capital-related costs, and costs a hospital allocates to approved medical education programs (nursing school or approved intern and resident programs) on its Medicare cost report.

(2) *Costs determined on a per case basis.* Costs subject to the ceiling as described in paragraph (c)(1) of this section will be determined on a per admission or per discharge basis as determined by HCFA for the purpose of the notice of cost limits established under § 405.460.

(3) *Target rate percentage.* The target rate percentage will be based on a hospital wage and price index (market basket index) that incorporates appropriately weighted indicators of changes in wages and prices that are representative of the mix of goods and services included in the most common categories of inpatient hospital operating costs subject to the ceiling as described in paragraph (c)(1) of this section. The target rate percentage for a particular 12-month cost reporting period will be identical to the rate of cost increase (market basket plus one percentage point) which is used in determining cost limits under § 405.460 and is contained in notices of hospital cost limits published under § 405.460(b)(3).

(4) *Target amount (ceiling).* The intermediary will establish for each hospital a ceiling on the reimbursable costs per case of that hospital. The ceiling for each 12-month cost reporting period will be set at a target amount determined as follows:

(i) For the first 12-month cost reporting period to which this ceiling applies, the target amount will equal the hospital's allowable operating costs per case for the hospital's base period increased by the target rate percentage for the subject period.

(ii) For subsequent 12-month cost reporting periods, the target amount will equal the hospital's target amount for the previous 12-month cost reporting period increased by the target rate percentage for the subject cost reporting period.

(5) *Notification of applicable target rate percentages.* For purposes of determining the ceiling on allowable rate of cost increases under this section, the intermediary will use the annual percentage increase for appropriate calendar years as published in final notices establishing schedules of hospital cost limits under § 405.460. When a cost reporting period spans portions of two calendar years, the intermediary will prorate the applicable percentages accordingly.

(d) *Application of target amounts in determining reimbursement.* (1) *General process.* At the end of each 12-month cost reporting period subject to this section, the hospital's intermediary will compare a hospital's allowable cost per case with that hospital's target amount for that period. If the hospital's actual allowable costs do not exceed the target amount, reimbursement will be determined (without regard to the lower of cost or charges provisions of § 405.455, but subject to other limitations on reimbursable cost established under § 405.460) under paragraph (d)(2) of this section. If the hospital's actual costs exceed the target amount, reimbursement will be determined (subject to other limitations on reimbursable cost established under 405.460) under paragraph (d)(3) of this section.

(2) *Inpatient operating costs are less than or equal to the target amount.* If a hospital's allowable inpatient operating costs per case do not exceed the hospital's target amount for the applicable cost reporting period, reimbursement to the hospital will be determined on the basis of the lowest of:

(i) The inpatient operating costs per case plus 50 percent of the difference between the inpatient operating cost per case and the target amount;

(ii) The inpatient operating costs per case plus 5 percent of the target amount; or

(iii) The hospital's allowable inpatient operating cost per case under applicable limits established under § 405.460.

(3) *Inpatient operating costs are greater than the target amount.* If a hospital's allowable inpatient operating costs per case exceed the hospital's target amount for the applicable cost reporting period, reimbursement to the hospital will be determined as follows:

(i) For cost reporting periods beginning on or after October 1, 1982 and before October 1, 1984, reimbursement will be based on the lower of:

(A) The hospital's target amount plus 25 percent of the allowable operating costs per case in excess of the target amount; or

(B) The hospital's allowable cost per case under applicable limits established under § 405.460.

(ii) For cost reporting periods beginning on or after October 1, 1984 and before October 1, 1985 reimbursement will be based on the lower of:

(A) The target amount per case; or

(B) The hospital's allowable cost per

case under applicable limits established under § 405.460.

(e) *Hospital requests regarding applicability of the rate of increase ceiling.* A hospital may request an exemption from or exception to the rate of cost increase ceiling imposed under this section. The hospital's request must be made to its fiscal intermediary no later than 180 days from the date on the intermediary's notice of program reimbursement. The intermediary will make a recommendation on the hospital's request to HCFA, which will make the decision. HCFA will respond to the exception request within 180 days from the date HCFA receives the request from the intermediary. The intermediary will notify the hospital of HCFA's decision. The time required for HCFA to review the exception request is considered good cause for the granting of an extension of the time limit to apply for review by the Provider Reimbursement Review Board, as specified in § 405.1841(b). HCFA's decision is subject to review under Subpart R of this part.

(f) *Exemptions.* (1) *New hospitals.* HCFA will exempt new hospitals from the rate of increase ceiling imposed under this section. For purposes of this section, a new hospital is a provider of inpatient hospital services that has operated as the type of provider for which it is certified for Medicare participation, under present and previous ownership, for less than 3 full years. This exemption expires at the end of the first cost reporting period beginning at least 2 years after the hospital accepts its first patient, or the first cost reporting period beginning on or after October 1, 1985, whichever comes first.

(2) *Risk-basis health maintenance organization (HMO).* The items or services are furnished to beneficiaries enrolled in an HMO by a hospital that is either owned or operated by a risk-basis HMO or related to a risk-basis HMO by common ownership or control (see § 405.2050(c)).

(g) *Exceptions.* (1) *General procedure.* HCFA may adjust a hospital's operating costs (as described in paragraph (b)(1) of this section) upward or downward, as appropriate, under circumstances as specified in paragraphs (g) (2) and (3) of this section. HCFA will make an adjustment only to the extent that the hospital's operating costs are reasonable, attributable to the circumstances specified, separately identified by the hospital, and verified by the intermediary.

(2) *Extraordinary circumstances.* The hospital can show that it incurred unusual costs (in either a cost reporting period subject to the ceiling or the hospital's base period) due to extraordinary circumstances beyond its control. These circumstances include, but are not limited to, strikes, fire, earthquakes, floods, or similar unusual occurrences with substantial cost effects.

(3) *Change in case mix.* The hospital:

(i) Has added or discontinued services in a year after its base period described in paragraph (b)(1) of this section;

(ii) Has experienced a change in case mix as a result of the addition or discontinuation of services that results in a distortion in the rate of cost increase; and

(iii) Submits data summarizing the case-mix changes and the resulting changes in costs.

(h) *Adjustments.* (1) *Comparability of cost reporting periods.* HCFA may adjust the amount of the operating costs considered in establishing cost per case for one or more cost reporting period(s), including both periods subject to the ceiling and the hospital's base period, to take into account factors which could result in a significent distortion in the operating costs of inpatient hospital services. Such factors could include a decrease in the inpatient hospital services that a hospital provides, that are customarily provided directly by similar hospitals, or the manipulation of discharges to increase reimbursement. A decrease in the inpatient hospital services provided could result from changes that include, but are not limited to, closing a special care unit or changing the arrangements under which such services may be furnished, such as leasing a department.

(2) *Nursing differential.* Because the Medicare inpatient routine nursing salary cost differential (see § 405.430) does not apply in the cost reporting periods subject to ceilings established under this section, HCFA will adjust base period costs to remove the effect of this differential.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance)

Dated: September 14, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 27, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27082 Filed 9-29-82; 8:45 am]

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Thursday
September 30, 1982

Part V

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Schedule of Limits on Hospital Inpatient Operating Costs for Cost Reporting Periods Beginning on or After October 1, 1982

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare Program; Schedule of Limits on Hospital Inpatient Operating Costs for Cost Reporting Periods Beginning on or After October 1, 1982

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final notice with comment period.

SUMMARY: This notice sets forth a schedule of limits on the hospital inpatient operating costs that may be reimbursed under Medicare for cost reporting periods beginning on or after October 1, 1982. These limits are needed to implement changes in the Medicare law that were made by section 101(a) of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982. The new limits differ from the current per diem limits on inpatient general routine operating costs in several major respects. First, they are not restricted to costs of inpatient general routine care, but cover total inpatient operating costs, including the costs of general routine service, special care, and ancillary services. The new limits will be applied on a cost per discharge rather than cost per diem basis. Finally, they are adjusted to reflect differences in the mix of Medicare cases treated by each hospital. The limits are similar to the current limits in that they do not apply to outpatient service cost, capital-related costs, malpractice insurance costs, or costs a hospital allocates to the interns and residents (in approved programs) or nursing school cost centers on its Medicare cost report. They also do not apply to children's hospitals, long-term care hospitals, or rural hospitals with fewer than 50 beds. The notice explains our methodology for deriving and applying the new limits.

DATES: Effective date: October 1, 1982. Although we are publishing this notice in final form, comments may be submitted as described below.

Comment date: To assure consideration, comments should be received by November 29, 1982.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17013, Baltimore, Maryland 21235.

Please refer to File Code BPP–196–FN.

If you prefer, you may deliver your comments to: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C.; or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comments will be available for public inspection, beginning approximately 3 weeks after publication, in Room 309–G of the Department's offices at 200 Independence Avenue, S.W., Washington, D.C. 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION, CONTACT: Marilyn Koch, (301) 594–9235.

SUPPLEMENTARY INFORMATION:

I. Background

A. General Information Relating to Provider Cost Limits

Section 223 of the Social Security Amendments of 1972 (Pub. L. 92–603, enacted October 10, 1972) amended section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) to authorize the Secretary to set prospective limits on the costs that are reimbursed under Medicare. These limits (commonly called section 223 limits) may be applied to direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider, and may be based on estimates of the cost necessary in the efficient delivery of needed health services.

Regulations implementing this authority are set forth at 42 CFR 405.460. Under this authority, we have published limits on hospital inpatient general routine per diem costs annually since 1974.

The current schedule of limits on hospital inpatient general routine operating costs was published in the **Federal Register** on September 30, 1981 (46 FR 48010), and applies to cost reporting periods ending after Septembere 30, 1981. The schedule excludes capital-related costs, medical and nursing education costs, and malpractice insurance expenses. It incorporates a "market basket" index to project increases in the prices of goods and services hospitals use in furnishing routine care, an adjustment for cost variations due to area differences in hospital wage levels, and an adjustment to recognize individual hospital differences in costs due to approved teaching activity. The current schedule also includes a formula that permits an increase in the limits for hospitals in States with below average Medicare utilization that may result from the provision of a greater intensity of routine care.

The schedule of limits set forth in this notice reflects major changes from the methodology used for the current limits. Several of these changes are needed to implement specific new provisions that were added to the Medicare law by section 101 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982. These changes in methodology are described in detail in section II of this preamble. Other features of these limits are similar to those of prior cost limit schedules. These features are also explained in section II.

B. Recent Legislation

1. *Summary.* On September 3, 1982, the President signed into law Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982. Section 101 of that legislation added section 1886 to the Social Security Act. This new section includes a number of provisions that restrict the level of Medicare payment for costs of inpatient hospital services. Section 1886(a) provides for the extension of the section 223 hospital cost limits, which currently apply only to inpatient general routine operating costs, to the operating costs of inpatient hospital services. (These operating costs are defined in the statute as all routine operating costs, ancillary service operating costs, and special care unit operating costs with respect to inpatient hospital services.) Section 1886(a) specifies that the costs to which the expanded limits apply are to be determined on a per discharge or per admission basis, and requires that the limit for each hospital be set based on the mix of types of Medicare cases treated by the hospital. In addition, section 1886(a) specifies the level at which the new limits are to be set for particular cost reporting periods.

Section 1886(b) provides for a new three-year limitation on payment for hospital costs that is separate from the type of limit currently established under section 223. This provision requires that we establish a ceiling level for the allowable rate of increase of hospitals' inpatient operating costs per case, and provides for incentive payments to hospitals that keep their cost below a target amount, as well as penalties for hospitals that incur costs greater than the target amount. Section 1886(c) provides that the Secretary may authorize payment to hospitals under State hospital cost control systems (instead of Medicare reimbursement rules, including limitations in reimbursement under sections 1886(a) and (b) that meet certain criteria.

Section 101(b) of Pub. L. 97–248 makes the new section 1886 effective for cost reporting periods beginning on or after October 1, 1982 and provides that, in order to accomplish the effect of these provisions promptly, regulations needed

to implement them may be issued as final regulations without prior notice and comment. Further, section 101(b) exempts, until January 1, 1984, these necessary regulations from the Office of Management and Budget (OMB) review of information collection requirements that would otherwise be required under the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Section 101(b) also requires us to develop, by December 31, 1982, proposals for legislation that would enable the Medicare program to reimburse participating providers (such as hospitals and skilled nursing facilities), on a prospective basis. (It is clear from the Conference Committee Report that the three-year rate of increase ceiling established under section 1886(b) is expected to end earlier if prospective reimbursement for inpatient hospital services is implemented.) (H.R. Rep. No. 97–760, 97th Cong., 2d Sess. 421 (1982).)

Section 101(c) provides for a number of amendments to various sections of Title XVIII of the Social Security Act that are necessary to conform the provisions of those sections to the new requirements established under section 1886.

2. *Section 1886(a) limits.* As noted above, section 1886(a) requires that the current section 223 hospital cost limits be expanded to cover total operating costs of inpatient hospital services, that they be applied on an average cost per discharge or per admission basis, and that they be adjusted for Medicare case mix. The statute specifies that the operating costs that are subject to the new limits must include all routine operating costs, ancillary service operating costs, and special care unit operating costs. These new cost limits are effective for hospital cost reporting periods beginning on or after October 1, 1982.

Under the current section 223 inpatient routine limits, hospitals are classified by bed size and geographic location, and the limits are set based on a percentage (currently 108 percent) of the mean labor-related and non-labor costs of each classification group. The new legislation requires that the level of the new limits for each group be set as follows:

- At 120 percent of the meafn for cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983;
- At 115 percent of the mean for cost reporting periods beginning on or after October 1, 1983 and before October 1, 1984; and
- At 110 percent of the mean for cost reporting periods beginning on or after October 1, 1984.

To prevent hospitals from being disadvantaged under this new system, the statute requires that a hospital's limitation on reimbursement for allowable operating costs of inpatient services be no lower than the hospital's reimbursement for allowable operating costs of inpatient services for the last cost reporting period prior to the first cost reporting period for which these cost limits are applicable. In accordance with the Conference Committee Report on Pub. L. 97–248, this provision will be implemented by comparing each hospital's cost-per-case limit established for the hospital's first cost reporting period under the new system to the allowable cost-per-case reimbursement in the previous cost reporting period. (See H.R. Rep. No. 97–760, 97th Cong., 2d Sess. 420 (1982).)

The Conference Committee Report also discussed (on page 419) the necessity to use data that are not current in establishing the limits, and provided guidance on the adjustments to be made to the data so they can be used for current cost reporting years. The committee stated its expectation that actual industry average cost increase information will be used to update the data through the cost reporting period preceding each cost reporting period to which the limits apply and that, to account for projected increases during the year subject to limits, the data will be adjusted by the hospital wage and price index (market basket) plus one percentage point.

The statute requires the Secretary to provide for exemptions, exceptions, and adjustments to the limits for certain categories of hospitals, as the Secretary deems appropriate, including psychiatric hospitals and public hospitals or other hospitals incurring additional costs because the facility serves a disproportionate number of patients who have low incomes or are Medicare beneficiaries under Part A. In addition, the special needs of sole community hospitals, new hospitals, risk-basis health maintenance organizations, and hospitals providing atypical services and essential community services, as well as extraordinary circumstances beyond the hospital's control, medical and paramedical education costs, significantly fluctuating population in a hospital's service area, and unusual labor costs are to be accounted for, as deemed appropriate by the Secretary. Rural hospitals with less than 50 beds which were in operation with less than 50 beds on September 3, 1982 are specifically exempted from the limits by the statute.

As noted above, the new legislation authorizes the Secretary to make special provisions for hospitals that serve a disproportionate number of patients who have low incomes, or are Medicare beneficiaries under Part A. For the reasons specified in the preamble to the final rule amending 42 CFR 405.460 (this rule is published elsewhere in this issue of the **Federal Register**) we have not yet developed any provisions of this type. However, we note that other exceptions for which these hospitals may qualify are provided by 42 CFR 405.460.

C. Implementation of Legislation

As explained earlier, the general rules governing section 223 cost limits are set forth in our regulations at 42 CFR 405.460. These regulations explain the procedure we follow in developing section 223 limits, and describe the exceptions and exemptions to the limits that are available to providers. The regulations do not, however, contain specific information on the cost limit schedules applicable for particular cost reporting periods. Since the cost limit schedules must be revised periodically to reflect more recent data or to permit refinements to the methodology for developing limits, we have adopted the practice of publishing cost limit schedules, and the methodology used to develop those schedules, in **Federal Register** notices. These cost limit schedules are generally published at least annually.

We plan to continue to follow this practice in issuing the hospital cost limit schedules required by section 1886(a). Thus, the initial schedule of limits on operating costs of inpatient hospital services is set forth in this notice. However, the changes in the Medicare law that were made by section 101 of Pub. L. 97–248 also require changes in our regulations. The revised regulations needed to implement the provisions of section 1886(a) that deal with exceptions and exemptions to the new limits, as well as new regulations needed to implement the rate-of-increase provisions of section 1886(b), are published as a separate document elsewhere in this issue of the **Federal Register**.

II. Major Features of New Limits

The schedule of limits effective for cost reporting periods beginning on or after October 1, 1982 will provide for the following:

A. Limits on Hospital Inpatient Operating Costs

Although section 1861(v)(1) of the Social Security Act authorizes limits on overall incurred costs or on the costs of specific items or services, we have

applied all previous hospital cost limit schedules only to costs for inpatient general routine services which include primarily room, board, and routine nursing services. These costs exclude cost of ancillary services (e.g. radiology or laboratory services) and costs of special care units such as intensive or coronary care.

Section 1886(a) of the Social Security Act provides for the establishment of limits on the amount of hospital inpatient operating costs per case that may be recognized as reasonable for Medicare reimbursement. Therefore, the new schedule applies to total hospital inpatient operating costs, including inpatient general routine operating costs, operating costs of special care units, and inpatient ancillary service operating costs. Like the current schedule, the new limits do not cover outpatient service costs, capital-related costs (i.e. depreciation, rent, interest and other costs normally classified in the depreciation accounts on a hospital's Medicare cost report), malpractice insurance costs, or costs a hospital allocates to the interns and residents (in approved programs) or nursing school cost centers on its Medicare cost report.

B. Application of Limits on Cost Per Dicharge Basis

Section 1886(a) of the Social Security Act requires that the limits on hospital inpatient operating costs be applied, at the Secretary's discretion, on either a cost per admission or per discharge basis. This provision of the statute requires a significant change in our methodology, since all previous hospital cost limit schedules, including the schedule of limits now in effect, have been applied on a per diem basis. (That is, each hospital's limit represents the maximum amount Medicare will pay for each day of inpatient general routine care the hospital furnishes a Medicare patient.) We have applied our limits on this basis because cost per diem is widely accepted by hospitals and payers (including the Medicare and Medicaid programs) as a valid and relatively uniform measurement of inpatient general routine cost.

Unlike the limits now in effect, the new limits will be applied on a per discharge, rather than per diem, basis. This means that each hospital will be paid no more than a specified amount per Medicare patient stay, and that the limit on the amount of payment to the hospital will be set without regard to the actual number of days of care each patient received or the per diem cost the hospital incurred to furnish this care. Under this system of limits the intermediary will use a hospital's number of Medicare discharges to determine the number of Medicare patient stays the hospital had during each cost reporting period. (For purposes of applying these limits, intermediaries will use the definition of "discharge" in § 304.4 of HCFA Pub. 15–II–C, the Provider Reimbursement Manual. Under this definition, the transfer of a patient from one inpatient area of the hospital to another does not constitute a discharge.) The intermediary will multiply each hospital's per discharge limit by the number of Medicare discharges, and compare the resulting amount with the total inpatient operating cost the hospital incurred to treat Medicare patients. The intermediary will then use the lesser of the two amounts as the basis for determining reimbursement to the hospital. The hospital's reimbursement also will be subject to the rate of increase ceiling required by section 1886(b) and implemented under new regulations described elsewhere in this issue of the **Federal Register.** However, reimbursement to the hospital under the rate of increase ceiling provisions will not be allowed to exceed the amount of reimbursement due under the hospital's inpatient operating cost limit.

C. Elimination of Adjustment for Covered Days of Care

In the past, commenters have objected to the application of routine cost limits on a per diem basis because such limits do not recognize differences in the intensity of routine services. Specifically, many hospitals have stated that they have relatively high per diem costs because they provide more intensive routine services than other hospitals to which they are compared. These hospitals also argue that their high per diem costs often are offset by their shorter-than-average lengths of stay, which result in a lower cost per case when compared to other hospitals with lower per diem costs but longer-than-average lengths of stay.

In response to these comments we have included, in the schedules of limits effective since July 1, 1979, an adjustment (the "covered days of care" adjustment) that automatically increases the per diem limits for hospitals in States with below average Medicare utilization per 1000 HI enrollees. This adjustment is designed to compensate for costs that may result from more intensive routine services. In addition, the Medicare regulations at 42 CFR 405.460(f)(5) provide an exception to the limits for hospitals that can demonstrate that their excess per diem costs are attributable to the provision of more intensive routine care resulting in a shorter average length of stay and higher per unit costs when compared to other hospitals that have a reasonably similar mix of patients. We believe that under the current system of per diem limits, the automatic utilization adjustment and the greater intensity of care exception are adequate to account for cost differences resulting from differences in service intensity.

As explained in sections II. A and II. B above, the new limits cover hospital inpatient operating costs and will apply on a per discharge basis. These limits will permit per diem differences in service intensity in both routine and ancillary services, and any resulting efficiencies in terms of lower cost per stay, to be directly represented in each hospital's reimbursement. Therefore, we believe the current "covered days of care adjustment" is not needed under the new limits, and we have not used that adjustment in developing these limits.

We do not believe the current exception to the limits for hospitals with high per diem costs resulting from more intensive routine care should continue to be available to hospitals covered by the new limits. Therefore, in a final rule published elsewhere in this issue of the **Federal Register,** we are amending 42 CFR 405.460(f)(5) to state explicity that the exception provided by that section is available only for periods during which hospitals are subject to the routine per diem limits. When the current routine limits are fully phased out (i.e., for hospital cost reporting periods beginning on or after October 1, 1983), the exception will no longer be available.

D. Use of a Hospital Specific Case-Mix Index (see Appendix II) to Reflect Differences in Hospital Inpatient Operating Costs Attributable to Institutional Differences in Medicare Patient Mix

Section 1886(a) requires the Secretary to establish case mix indexes for all short-term hospitals, and to set limits for each hospital based on the general mix of types of medical cases with respect to which the hospital provides services covered under Medicare. This means we must recognize hospital specific differences in Medicare case mix in establishing the limits on inpatient operating costs.

This adjustment is needed to implement the statutory requirement, and to recognize that hospital costs for treating particular cases can vary widely depending on the nature of the patient's illness or injury, the age of the patient, whether medical or surgical

treatment is indicated, and many other factors that are beyond a hospital's control and unrelated to the efficiency of its operations. Some hospitals will incur higher costs per discharge than others because they treat a higher proportion of more complex and costly cases. Because these variations in the types of cases treated (i.e., case mix) can result in cost differences that do not reflect differences in operating efficiency, Congress recognized that these limits must include an explicit adjustment for case mix. Under our system, this adjustment would be accomplished by means of a Medicare case-mix index. Section III contains further detail on the development and application of the case-mix index.

E. Application of the Limits to All Hospitals Except Rural Hospitals With Less Than 50 Beds, Children's Hospitals and Long-Term Care Hospitals

(1) *Rural hospitals with less than 50 beds.* The limits authorized under Pub. L. 97–248 specifically exempt less than 50 bed rural hospitals that were in operation and had less than 50 beds before September 3, 1982.

For the purpose of this exemption only, rural hospitals are those facilities that are located outside the boundaries of a Standard Metropolitan Statistical Area (SMSA) as that term is defined by the Office of Management and Budget (OMB), Executive Office of the President. In addition, the definition of "bed" shall be the same as that currently used under the routine hospital cost limits (see section 2510.5, HCFA Pub. 15–1 (Provider Reimbursement Manual)).

In a final rule published elsewhere in this issue of the **Federal Register**, we have added this category of exemption to those already provided at 42 CFR 405.460(e).

(2) *Children's hospitals.* As explained in greater detail in section III below, a key feature of our methodology for developing the limits is the Medicare case-mix index. The case-mix index is used to adjust for differences in hospital costs that result from differences in the type and mix of cases treated by various hospitals. It is a hospital-specific adjustment, unique to each facility, that is derived in part from abstracts of Medicare patient records (i.e., "cases") maintained in HCFA.

To calculate case-mix indexes with a sufficient degree of statistical reliability, a minimum number of cases is required from each hospital. However, children's hospitals as a class (i.e., those hospitals organized and operated for the treatment of patients, the majority of whom are under age 18) generally do not treat a sufficient number of Medicare patients in each cost reporting period to supply the information we need to calculate reliable case-mix indexes.

If the number of Medicare cases treated by a hospital were our only criterion for determining whether to apply the new limits to a hospital, we would be able to apply those limits to certain children's hospitals for some cost reporting periods but not for others. If the limits were applied in this way, however, these hospitals would not know from year to year whether they would be subject to the limits. We believe this uncertainty would be inconsistent with the purpose of prospective limits. Therefore, we are excluding children's hospitals from the new limits. (These hospitals, however, would continue to be subject to the routine cost limits for as long as those limits remain in effect. When the routine limits are fully phased out, no Medicare cost limits, other than the rate of increase ceiling under § 405.463, will apply to children's hospitals.)

We wish to note that the exclusion from the new limits only applies to entire facilities that are organized and operated as children's hospitals. Children's components of a short-term general hospital are subject to the new limits on the same basis as other components of the hospital.

(3) *Long-term care hospitals.* Long-term care hospitals are hospitals organized to provide long-term treatment programs with lengths of stay generally in excess of 30 days. These hospitals are identified by a distinct "type of facility" code in the third digit of the Medicare provider number. Data from long-term care hospitals are not adequate to include them in a system of case-mix adjusted limits based primarily on records from general short-term acute care hospitals.

Under section 1886, the Secretary is required to consider the special needs of psychiatric hospitals in developing exemptions from and exceptions to the cost limits. Since most psychiatric hospitals are long-term care facilities, we believe that the exclusion of long-term care hospitals from the limits will insure that most psychiatric hospitals are not disadvantaged. For those few psychiatric hospitals that are not long-term care providers, we believe the exception provisions of 42 CFR 405.460(f) area sufficient to accommodate most circumstances that may result in a provider legitimately exceeding its cost limit.

F. A Classfication System Based on a Hospital's Bed Size, and Urban or Rural Location

As in prior cost limit schedules, we group hospitals on the basis of their bed size and urban or rural location. We use Standard Metropolitan Statistical Areas (SMSAs) and in New England, New England County Metropolitan Areas (NECMAs) to determine urban location. The SMSA and NECMA definitions we use are the most recent definitions established by the Office of Management and Budget, Executive Office of the President, including areas newly designated as SMSAs and NECMAs based on the 1980 Census of Population.

G. Use of 1980 Medicare Cost Report and Billing Data

We derived the limits from Medicare records fron three sources, as follows: (1) Medicare hospital cost reports available as of May 1, 1981, which primarily consist of cost reports for fiscal years ending in 1980; (2) billing data from a 20 percent sample of Medicare hospital bills submitted for calendar year 1980 (see discussion of the MEDPAR file in section III and (3) a quarterly tabulation of Medicare discharges covering the same periods represented in the cost report. These data were the latest available for the construction of the cost per discharge limits.

We calculated each hospital's cost per Medicare discharge (less capital, medical education, and malpractice costs) from the hospital's cost report, and from a file of Medicare hospital discharges (bills) maintained by HCFA. We projected each hospital's cost per Medicare discharge to account for inflation occurring between the cost reporting periods used to calculate the limits and April 1, 1983, the midpoint of the first cost reporting period to which the limits would apply. We also standardized each hospital's cost per discharge to adjust for variations in costs due to differences in case mix, level of teaching activity, and variation in area wage levels. A detailed explanation of the construction of the basic group limits is contained in section VII.

H. Elimination of the 5 Percent Nursing Differential

Regulations published on October 1, 1981 state that Medicare will recognize a nursing salary differential equal to 5 percent of a hospital's average per diem general routine nursing salary costs for hospital cost reporting periods ending after September 30, 1981. However,

section 103 of Pub. L. 97-248 amended section 1861(v)(1) of the Social Security Act to eliminate payment of an inpatient routine nursing salary cost differential for hospitals and skilled nursing facilities, effective for cost reporting periods ending after September 30, 1982. For those cost reporting periods beginning before October 1, 1982, the reduction in reimbursement can only be applied to the portion of the cost reporting period occurring after September 30, 1982. We are publishing revised regulations to implement this legislation in a separate **Federal Register** document.

Since the law requires that effective October 1, 1982, we no longer recognize a nursing salary cost differential, the cost per discharge limits on hospital inpatient operating costs have been calculated to reflect a zero nursing salary differential.

I. Revised Market Basket Index

Since July 1, 1979 the hospital cost limit schedules have incorporated a market basket index to reflect changes in the prices of goods and services hospitals use in producing general inpatient routine services. We developed the current market basket by identifying the most commonly used categories of hospital routine operating expenses, and weighting each category to reflect the estimated proportion of hospital routine operating expenses attributable to each category. We then obtained historical and projected rates of increase in the resource prices for each category. Based on the rate of increase and the weight for each category, we developed market basket index factors. We used these factors to project the overall rates of increase in hospital inpatient general routine operating costs between the cost reporting periods represented in the data collection (i.e., the fiscal year of each hospital's most recent cost report) and the mid-point of the first cost reporting period to which the limit, based on these data, apply.

Under the revised system of limits, we are continuing to use a market basket index to project rates of increase in hospital costs. Because the limits will apply to total inpatient operating costs rather than only inpatient routine operating costs, we have revised the market basket categories, and the weights assigned to each category, to reflect this change in the scope of the limits (see Appendix I).

The revised market basket reflects two changes from the inpatient routine cost market basket that was included in the hospital cost limits notice published on September 30, 1981. First, we have deleted malpractice insurance premiums from the categories of expenses included in the market basket. We made this change because malpractice insurance premiums, which are apportioned to Medicare on a different basis from other operating costs (see 42 CFR 405.452(b)(i)(ii)), are not included among the hospital costs subject to limitation. Secondly, we have revised the weights assigned to each expense category to reflect the estimated proportion of total inpatient operating cost, rather than inpatient routine operating cost, attributable to each category.

The categories of expenses we used to develop the revised market basket are based primarily on those used by the American Hospital Association (AHA) in its analysis of costs, and by the U.S. Department of Commerce in publishing price indexes by industry. The weights are based primarily on surveys by the AHA, and from the Department of Commerce's input-output studies. The price variables we used to predict price changes for each category of expenses are specified in Appendix I. For further background on the development of the market basket index, the reader is referred to Freeland, Anderson, and Schendler, "National Hospital Input Price Index", *Health Care Financing Review*, Summer 1979, pp. 37-61.

J. Revised Wage Index

Since July 1, 1979, the schedules of hospital cost limits have incorporated a wage index to adjust for differences in the levels of labor-related costs among the areas in which hospitals are located. The hospital wage indexes are based on wage and employment data maintained by the Bureau of Labor Statistics (BLS) of the U.S. Department of Labor. Specifically, the source file has been the ES 202 Employment, Wages, and Contributions File for hospital workers (Standard Industrial Classification code 806).

To develop the current wage index, we first calculated the national average wage for hospital workers in urban areas (Standard Metropolitan Statistical Areas (SMSAs) or New England County Metropolitan Areas (NECMAs)) and a separate national average wage for hospital workers in non-urban (i.e., non-SMSA and non-NECMA) areas. We then divided the average wage for each urban and non-urban area by the appropriate national average (urban or non-urban). This calculation yielded an index value for each urban area that reflected the average wage for that area relative to the national average of all urban areas, and an index value for each non-urban area that reflected the average wage for that area relative to the national average for all non-urban areas. We call this type of index, which relates the average wage for each individual area to separate urban or non-urban national averages, a "split" index.

Because the wage index we used to calculate the current routine limits is a split index, there are instances in which the index value for an urban area is lower than the value for an adjacent non-urban area. This apparent anomaly has caused concern and confusion among hospitals in these areas. To avoid further confusion on this point, we have, in developing the revised total cost limits, used a "combined" wage index based on 1980 BLS wage and employment records. The combined wage index relates the average area wage for urban and non-urban areas to a single national average wage for all areas. Although the change from a split to a combined wage index has no effect on either the accuracy or the dollar amount of any hospital's limit, use of a combined index will permit direct comparison of the index values for urban and rural areas, and thus make it easier for hospitals to understand how the wage indexes for their areas were computed. The following example demonstrates that the final result using a combined wage index, as compared to a split wage index, is identical.

Example

(1) *Split Wage Index* = .7059
Labor share = 1995.58
Labor deflated cost:
1995.58 ÷ .7059 = 2827.00
Mean labor deflated costs = 2127.82
Area labor share limit:
2127.82 × .7059 = $1502.00

(2) *Combined Wage Index* = .7916
Labor share = 1995.58
Labor deflated cost:
$1995.58 ÷ .7916 = 2520.94
Mean labor deflated cost =
Area labor share limit:
1897.53 × .7916 = $1502.00

The following hypothetical sample array is the source of the data used in this example. The split and combined wage indexes used in the hypothetical sample array were derived as shown below.

HYPOTHETICAL SAMPLE

Urban area	Average monthly hospital wage	Split wage index	Combined wage index
1	$900	.7059	.7916
2	1,050	.8235	.9235
3	1,125	.8824	.9894
4	1,500	1.1765	1.3193
5	1,800	1.4118	1.5831
Total	6,375		

Urban Nat'l Avg. Monthly Hospital Wage =

$$\frac{\text{Total Urban Avg. Monthly Hosp. Wage}}{\text{Number of urban areas}} = \frac{6375}{5} = \$1275.00$$

Combined National Avg. Monthly Hosp. Wage =

Total Urban Avg. Monthly Hosp. Wages

$$+ \frac{\text{Total Rural Avg. Monthly Hosp. Wages*}}{\text{No. urban areas + Number rural areas}} = \frac{6375 + 4990^*}{10} = \$1137.00$$

Example

(1) *Computation of Split Wage Index*
Area 1 average monthly hospital wage = $900.00
Urban Natl. Avg. monthly hosp. wage = $1275.00
Area 1 split wage index: 900.00 ÷ 1275.00 = .7059

(2) *Computation of Combined Wage Index*
Area 1 average monthly hosp. wage = $900.00
Combined national average monthly hosp. wage = $1137.00
Area 1 combined wage index: $900.00 ÷ $1137.00 = .7916

HYPOTHETICAL SAMPLE ARRAY

1	2	3		4		5	
Area	Labor share	Wage index		Labor deflated cost [1]		Area limit (Labor share) [2 3]	
		Split	Combined	Using split wage index	Using combined wage index	Split wage index	Combined wage index
1	$1,995.58	.7059	.7916	$2,827.00	$2,520.94	$1,502.03	$1,502.08
2	2,001.35	.8235	.9235	2,430.30	2,167.14	1,752.26	1,752.37
3	1,998.25	.8824	.9894	2,264.56	2,019.66	1,877.59	1,877.42
4	2,003.41	1.1765	1.3193	1,702.86	1,518.54	2,503.38	2,503.41
5	1,996.85	1.4118	1.5831	1,414.40	1,261.35	3,004.06	3,003.98
Mean labor deflated arrayed costs =				$2,127.82	$1,897.53		

[1] Column 2 divided by corresponding value in column 3.
[2] Column 4 multiplied by appropriate value in column 3.
[3] Numbers are not identical solely due to rounding.

In developing the wage index for the limits, we have continued to use approximate, rather than actual, index values for certain areas. (We also used approximate wage index values for certain areas in developing the current limits.) These approximate values are identified in Tables III A. and III B. We have done this because BLS, which supplies the wage and employment data used to calculate the wage index, has informed us that its confidentiality requirements prohibit it from disclosing either the actual data or indexes for areas that include fewer than 3 reporting units. (A reporting unit need not be a single hospital. Reporting unit is defined by BLS as the smallest unit for which data are recorded on the employer's contribution report. For example, two facilities in the same area owned by one employer could appear as one reporting unit.)

To make it possible to calculate limits for these areas, we have asked the BLS to identify the areas having wage index values numerically closest to, but not less than, the areas for which it cannot supply actual data. In the case of each area for which actual data are unavailable, we have substituted the wage index value identified by BLS as being closest to the actual value. We believe that the use of approximate rather than actual values for these areas will not affect the accuracy of the limits significantly, and will assure that no hospital's limit is reduced because actual data for its area are not disclosable. As was done in developing the current routine limits, we have excluded data from Federal government hospitals in constructing the wage indexes. Because Federal hospitals typically use national pay scales, the amounts they pay their employees do not necessarily reflect area wage levels. Since they also do not normally participate in the Medicare program, we believe exclusion of these data is appropriate.

The latest series of wage indexes reflects two additional changes from previous schedules. Prior schedules of limits that incorporated a wage index adjustment were not applied to hospitals in Puerto Rico, due to the lack of BLS hospital wage and employment records for that area. This notice of total inpatient operating cost limits contains wage indexes for Puerto Rico, and we have extended these limits to Puerto Rican hospitals.

We have also included wage indexes in Table IIIA for those newly designated SMSAs and NECMAs that were classified as such as a result of the 1980 census. (See Appendix III for a listing of the newly designated SMSAs and NECMAs.)

*Total Rural Average Monthly Hospital Wages are computed from average monthly hospital wages for five rural areas.

K. Use of Revised Inflation Estimates to Derive the Cost Limits

Since July 1, 1979, we have constructed the published limits using provider costs that have been inflated to the midpoint of the first cost reporting period to which the particular schedule applied. The inflators used were based on historical and projected rates of increase in the hospital market basket. To account for projected inflation for cost reporting periods beginning after the earliest effective date of the cost limits schedule, we applied the forecasted inflation in the market basket to increase the otherwise applicable limit contained in the notice. With respect to the new cost per discharge limits, new section 1886(a)(1)(B) states:

> The Secretary shall set limits for a cost reporting period of a hospital (I) by updating available data for a previous period to the immediate preceding period by the estimated average rate of change of hospital costs industry-wide, and (II) by projecting for the cost reporting period by the "applicable percentage increase" (quotations added) . . .
>
> "Applicable percentage increase" is defined in the statute as:
>
> . . . 1 percentage point plus the percentage, estimated by the Secretary, by which the cost of the mix of goods and services . . . based on an index of appropriately weighted indicators of changes in wages and prices . . . representative of the mix of goods and services included in such inpatient hospital services, . . . exceeds the cost of such mix of goods and services for the preceding 12-month cost reporting period.

As in prior limitation schedules, to derive the basic group limits, each hospital's cost per Medicare discharge was inflated to the midpoint of the first cost reporting period to which the limits apply. This cost reporting period is the twelve month period beginning on October 1, 1982; its midpoint is April 1, 1983. In accordance with the statute, two different estimates of inflation were used to accomplish this adjustment. First, using estimates of the actual rate of increase in Medicare inpatient hospital costs furnished by HCFA's Office of the Actuary, we inflated the cost per discharge of each hospital in our data base to the midpoint of the cost reporting period immediately preceding that hospital's first cost reporting period subject to the new limits. From this point, we then further adjusted these actuarilly inflated costs per discharge to April 1, 1983 by applying a rate of increase equal to 1 percentage point plus the estimated annual rate of inflation in

the market basket described in Appendix I.

This process was followed for each hospital in our data base in order to arrive at the mean costs which form the basis of the group limits. For providers whose cost reporting period begin after October 1, 1982, the limit published in the notice is further updated using the market basket rate plus 1 percentage point to reflect cost increases occurring after the period represented in the published limit. (See Section VII.B. for further detail on the computation of each hospital's limit.)

Example.

Hospital A, Cost reporting period ends 12/31

Cost report in data base is: Fiscal Year Ending 12/31/80

First reporting period to which limit applies is: Fiscal Year Ending 12/31/83

Hospital A's cost data from the data base is updated through 6/30/82 (midpoint of Hospital A's cost reporting period preceding the first period to which limits apply) using the average actual increase in Hospital cost. This yields average cost for hospital A during the period 1/1/82—12/31/82 recognizing the actual change in hospital inpatient expenditures. The data are further updated to 4/1/83 midpoint of the first cost reporting period to which limits apply using the market basket rate plus one percentage point, the rate of increase specified in section 1886(b)(3)(B).

This yields Hospital A's cost used in setting the mean costs on which the limits are based (costs incurred during the period ending 9/30/83). The limit applicable to Hospital A is further updated using the market basket rate plus 1 percentage point to reflect cost increases occurring after the period represented in the published limit. This yields a limit for Hospital A reflecting cost increases during the first period subject to the limit.

The annual inflation rates that we used to establish the limits are as follows:

	Estimated actual rate of increase in medicare inpatient operating costs per discharge	Estimated market basket rate of increase plus one percentage point
1980	12.9	*12.8
1981	15.1	*12.9
1982	14.3	9.9
1983	14.0	7.9
1984	NA	8.6

*For comparison only. These rates were not used to construct the cost per discharge limits.

L. Separate Treatment of the Labor-Related and Non-Labor Cost Per Discharge Used to Derive the Limits (see Tables I and II)

M. A Cost of Living Adjustment to the Non-Labor Component of the Limits for Hospitals in Alaska, Hawaii, and Puerto Rico (see Section VII B and Table II))

N. A Revised Adjustment to the Limits for Increased Costs Due To Approved Internship and Residency Programs

The current schedule of limits on hospital inpatient general routine operatings costs permits each hospital's otherwise applicable limit to be increased by 4.7 percent for each .1 increase (above zero) in the hospital's intern-and-resident to bed ratio. We included this adjustment to account for increased routine operating costs that are generated by approved internship and residency programs, but are not allocated to the interns and residents (in approved programs) or nursing school cost centers on the hospital's Medicare cost report. Such costs might include, for exemple, increased medical records costs that result from the keeping, for teaching purposes, of more detailed medical records than would otherwise be required.

Because our analysis of the data we used to develop the new limits shows that hospital inpatient operating costs per discharge tend to increase in proportion to increases in hospital levels of teaching activity, we have adopted a similar adjustment to the new limits. Specifically, we have increased each hospital's otherwise applicable limit by 6.06 percent for each increase of .1 (above zero) in the hospital's ratio of full-time equivalent (FTE) interns and residents to beds. The increase in the percentage amount of the adjustment (from 4.7 percent to 6.06 percent) results from the fact that total inpatient operating costs, which include special care unit and inpatient ancillary costs, are more heavily influenced than routine costs by changes in the level of teaching activity. In our opinion, this adjustment accounts for the additional inpatient operating cost which a hospital incurs through its operation of an approved intern and resident program.

In previous cost limit schedules, we have required hospitals to report to their intermediaries the number of full time equivalent (FTE) interns and residents in approved programs. The intermediaries used this information to compute the education cost adjustment.

Section 1886(b)(2)(B) provides that chapter 35 of title 5, United States Code shall not apply, until January 1, 1984, to collection of information and information collection requests which the Secretary of HHS determines to be necessary to carry out the amendments made by section 1886.

The Conference Committee Report accompanying Pub. L. 97–248 indicates this provision was included because the conferees recognized that the necessity to establish regulations implementing the statute will not permit the Secretary to follow the normal approval process for forms under the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Under section 1886(b)(2)(B), all revisions to the Medicare cost reporting forms needed to implement these provisions will be exempt from Pub. L. 96–511 until the end of calendar year 1983. Therefore, HCFA will continue to require hospitals that wish to obtain the education cost adjustment to report to their intermediaries the number of FTE interns and residents in approved programs.

Our current regulations, 42 CFR 405.460(f)(4), provide an exception to the limits for a provider that, when compared to other providers in its group, incurs increased costs because it operates an approved professional or paramedical education program, other than an intern and resident program of the type specified in 42 CFR 405.421 (see Provider Reimbursement Manual HCFA Pub. 15–1, Sections 404–404.3). This exception continues to be applicable to the new cost limits. In our view, this exception, properly interpreted, means that a hospital that incurs total inpatient operating costs per discharge in excess of its education-adjusted limit because it operates an approved medical education program can obtain an exception only if, after application of the education cost adjustment, the hospital's actual costs exceed its limit. For such cases, the exception cannot be greater than the amount of the difference between its actual costs and its limit.

O. Limits Set at 120 Percent of the Mean Labor-Related and Mean Non-Labor Costs of Each Hospital Classification Group (see Tables I and II)

Section 1886 of the Social Security Act specifies that the level of limits on hospital inpatient operating costs be set at 120% of the group means effective for cost reporting periods beginning on or after October 1, 1982. Effective with reporting periods beginning on or after October 1, 1983 and October 1, 1984, the levels shall be reduced to 115% and 110%, respectively.

P. A Hold Harmless Provision to Guarantee a Minimum Level of Reimbursement for Hospitals Subject to the Cost Per Discharge Limits

We believe the extension of reimbursement limits to total hospital inpatient operating costs adjusted for case mix will enhance the effectiveness of the limits in preventing payment for costs due to inefficiency. However, Congress recognized that there may be instances in which individual hospitals could have their reimbursement substantially reduced by the immediate application of the new schedule. To prevent hardship to these hospitals, Section 101(a) of Pub. L. 97–248 enacted section 1886(a)(1)(C) of the Social Security Act, which mandates a hold harmless provision for all hospitals subject to the new limits beginning with the first reporting period of application. Under the hold harmless provision, each hospital's total Medicare per discharge reimbursement for allowable inpatient operating costs (excluding costs specifically exempt from the new limits such as capital, medical education, and malpractice insurance costs), cannot be less than a guaranteed minimum level for the cost reporting periods in which the cost per discharge limits apply, regardless of all other provisions in this schedule. This guaranteed minimum level is equal to an amount no less than the provider's allowable reimbursement per discharge for inpatient operating costs (including payment for inpatient general routine operating costs, special care unit operating costs, and inpatient ancillary service costs) based on the hospital's Medicare cost report for the most recent cost reporting period immediately preceding the first period to which limits are applied (i.e., the "base period"). However, in no instance could a provider receive more than its actual allowable costs for the reporting period in which the cost per discharge limits apply. Section VII contains a further explanation on the application of the hold harmless provision.

III. The Medicare Case-Mix Index

A. Development of the Case-Mix Index

1. *Statutory Requirement.* Section 101(a) of Pub. L. 97–248, requires the Secretary to establish case-mix indexes for all short-term hospitals. The Conference Committee Report accompanying the legislation states that "* * * initially the Secretary will need to rely on a currently available indicator of case-mix complexity such as the system developed at Yale University." However, the report also indicates that the conferees expected that "* * * the Secretary will continue to evaluate possible methods for adjusting for case mix and will adopt an improved method when it becomes available." (See H. R. Rep. 97–760, 97th Cong. 2d Sess. 418 (1982).)

2. *Overview.* Isolating the effects of differences in case mix from the effects of other factors that affect hospital costs required a statistical measure defining a hospital's inpatient case mix. The development of such a mesure depends on our ability to distinguish among the various kinds or types of inpatient cases, and to identify the relative cost of hospital treatment for each category.

The number of possible combinations of diagnoses, procedures, complications, and admitting status is obviously very large. However, the number of combinations that occur with significant frequency is much smaller. Furthermore, many of these are similar in terms of the quantity of resources required in diagnosis and treatment. These facts should permit the classification of hospital cases into a manageable number of categories that are clinically similar and reasonably homogeneous in terms of resource use and cost.

The first requirement in the process of constructing a valid case-mix measure that differentiates costliness among case categories involves the development of a suitable case classification system.

The second requirement is the creation of a set of "weights" that measure the relative cost of treating cases classified in each classification category. Once these requirements are met, a "case-mix index" for each hospital can be calculated.

If the proportion of a hospital's patients in a given category is multiplied by the cost weight associated with that category, and these products are summed across all categories, we obtain a measure of the hospital's expected cost per case, given its case mix. Dividing a hospital's expected cost per case by the national average expected cost per case over all hospitals produces a specific case mix index value for each hospital. The case mix index, then, is a summary statistic representing the relative costliness of each hospital's mix of cases compared to the national average mix of cases. This index permits us to express a hospital's Medicare patient mix as a single statistic in the context of a total cost limits system.

In the following sections we describe the actual construction of the Medicare case mix index, the methods used to classify Medicare discharges, the data sources used, the construction of the cost weights, and the calculation of the index. (In the explanations that follow, the terms "case" and "discharge" are used interchangeably.)

3. *Case classification.* Over the past several years, a case classification system called Diagnosis Related Groups (DRGs) has been developed at Yale University. The formation of DRGs presupposes that cases can be classified into clinically coherent groups that are reasonably similar in resource consumption, either in terms of cost or length of stay. The latest series of Yale DRGs is based on records of patients discharged during the last half of 1979.

Using a population of over 1.4 million records selected from a nationally representative sample of 332 hospitals participating in the Commission on Professional and Hospital Activities hospital discharge abstract service, the Yale researchers created a stratified sample of 400,000 medical records, classified into 23 Major Diagnostic Categories (MDCs). Each MDC represents a broad clinical category that is differentiated from all others based on body system involvement and disease etiology. The specification of the MDCs was developed by a committee of clinicians using the following guidelines: (1) They must be clinically consistent; (2) They must have a sufficient number of patients; and (3) They must cover the complete range of diagnoses represented in the *International Classification of Diseases, 9th Revision, Clinical Modification* (ICD–9–CM), without overlap.

The patient records in each MDC were then partitioned using a classification algorithm called AUTOGRP and a prespecified set of variables to suggest subgroups of cases that were expected to be distinct in length of stay. The variables used to split the MDCs were intentionally limited to those that are descriptive of the patient's clinical condition, and readily available on most discharge abstracts, such as principal diagnosis, secondary diagnoses, surgical procedures, age, sex, and discharge status. Suggested subgroups of cases within the MDCs were examined by physicians to determine whether the proposed distinctions were clinically sensible and whether the cases in each group were medically similar. These purely statistical subgroups were modified if they were not supported clinically. For example, in MDC 11 (Diseases and Disorders of the Kidney and Urinary Tract), the initial statistical grouping of medical (i.e. nonsurgical) cases suggested 3 subgroups that were different in terms of length of stay. Each of these subgroups, however, contained several different kinds of cases (e.g.

urinary tract infections, signs and symptoms, renal failure, and neoplasms). Clinical judgment suggested that the major clinical subsets of these 3 groups should be revised to form 7 more clinically coherent initial groups: Kidney stone, infection, renal failure, neoplasms, signs and symptoms, urethral stricture, and other. This process ultimately resulted in a set of 467 mutually exclusive and exhaustive case classification categories called Diagnosis Related Groups (DRGs).

The patient classification categories we used to classify Medicare cases are a subset of the 467 Yale DRGs. Of the 467 Yale DRGs, 18 were collapsed into 9 more general categories because specific clinical information essential for the assignment of Medicare cases to these DRGs was not available in HCFA's file of Medicare discharge records (see the discussion of the MEDPAR file in section 4(i)). Of the remaining 458 DRGs, we eliminated 38 because they contained no Medicare cases, and an additional 64 because they contained so few cases that cost weights for them would be statistically unreliable. This process resulted in 356 Medicare DRGs, which we used to construct the Medicare case-mix indexes.

4. *Data.* Hospitals participating in Medicare submit cost and utilization information to the Medicare intermediaries in several forms. In developing the Medicare case mix index, we used the following types of data.

(i) *MEDPAR File.* Although hospitals are not paid accumulated charges for each Medicare discharge, they are required to submit a detailed bill for services furnished to each Medicare inpatient. The billing form is the HCFA–1453, Inpatient Hospital and Skilled Nursing Facility Admission and Billing Form. For each beneficiary whose HI claim number ends in the digits "0" or "5" (i.e., 20 percent of all patients) the hospital also submits a narrative description of the patient's diagnosis at discharge, and surgical procedures performed, if any, along with the charges for ancillary services (e.g., radiology, laboratory, operating room, etc.). The information from these bills is recorded on electromagnetic tape, and transmitted to HCFA's central office in Baltimore.

In HCFA, the narrative diagnoses and procedures are coded using the ICD–9–CM system. The coded clinical information and billed charge data are maintained in a statistical file called MEDPAR (MP). For 1980, this file contains approximately 2 million sample patient cases.

(ii) *Cost Reports.* After the end of each cost reporting period, each hospital must complete and submit to its fiscal intermediary a Medicare cost report. The intermediary uses this report, which contains auditable financial data, to calculate the total amount Medicare will pay for services the hospital furnished Medicare patients during the reporting period. On specific schedules of the report, the hospital reports data on Medicare inpatient general routine service per diem costs, Medicare speciall care per diem costs, and on the ratio of cost to charges for each ancillary service department. Cost reports available as of May 1, 1981 were used to construct the case-mix indexes.

5. *Construction of the cost weights.* a. *Computation of adjusted cost for each case.* Given these data and the existence of 356 Medicare DRGs, a cost weight for each DRG can be calculated. Each weight reflects the average cost, across all hospitals, of treating cases classified in that DRG. In establishing these weights, we used data from the MEDPAR file (MP), and from the Medicare cost reports (MCR). The source of the data items used to construct the weights is given in parentheses for each steps of the calculation.

To derive DRG weights, we first calculated an adjusted cost for each case by: (1) Multiplying the number of days the patient spent in a regular room (MP) by the hospital's routine cost per day (MCR); (2) Multipying the number of days the patient spent in a special care unit (MP) by the hospital's special care unit cost per day (MCR); and (3) Multiplying the ancillary charges (MP) by the relevant departmental ancillary cost to charge ratios (MCR) to eliminate the gross effects of cross subsidization between hospital service departments. All hospital routine and special care per diem costs were standardized to July 1, 1980, to coincide with the mid-point of the period represented in the MEDPAR file (i.e. calendar year 1980 records) Example 1 depicts the calculation of the adjusted cost per case for a patient who spent 10 days in a hospital in New York City. Two of the 10 days were spent in a special care unit. During the stay, the patient incurred charges for radiology, laboratory and pharmacy services.

Example 1.—Calculation of Adjusted Cost Per Case for Cases Classified Within a DRG.

Routine Care Cost Per Diem (MCR)	×	Routine Care Days (MP)	=	Routine Care Cost
$150		8	=	$1,200

Special Care Cost Per Diem (MCR)	×	Special Care Days (MP)	=	Special Care Cost
$200	×	2	=	$400

Ancillary department	Cost-to-charge ratio (MCR)	×	Ancillary charges (MP)	=	Ancillary cost
Radiology	.80	×	$55	=	$44
Laboratory	1.20		175		210
Pharmacy	.85		80		68
Total					322

NOTE: Adjusted Cost Per Case $1200 + $400 + $322 = $1922.

b. *Standardization of adjusted cost per case for variation due to teaching activity and hospital wage levels.* The next step was to standardize each adjusted cost per case for the effects of variations in the level of hospital specific teaching activity and area-specific hospital wage levels, so that the cost values would be comparable across hospitals. The method for standardizing adjusted costs per case for differences in teaching activity is as follows. First, for each hospital with an approved internship and residency program, we determine the ratio of full-time equivalent (FTE) Interns and residents per bed. We compute this ratio for each hospital from data contained on Medicare institutional certification surveys where available, and from data submitted directly by the intermediary. We then multiply the FTE intern and resident to bed ratio by 6.06 percent, the education cost adjustment factor, and add the product to 1.0. This results in a teaching activity adjustment factor, which we then use to divide the hospital's adjusted cost per case. The result of this division is a cost value for each case adjusted for hospital differences in teaching activity.

Next, we divided each hospital's adjusted cost per case into labor related and non-labor components. The labor related component was derived from the market basket and represents a fixed share (80.77 percent) of cost per case. This share represents the sum of the

1980 market basket relative importance weights for wages and salaries, employee benefits, professional fees, business services, and miscellaneous expenses (see Appendix I). The labor related component of adjusted cost per case was then divided by the hospital's applicable wage index from Tables III.A and III.B. This result was added to the non-labor proportion of adjusted cost per case to yield a revised cost per case that is standardized for hospital differences in teaching activity and area wage levels. The resulting adjusted cost values for the cases from each hospital represent estimates of the treatment costs that would prevail if the hospital had no teaching programs, and paid the prevailing national average wage rates. The calculation of this standardized cost per case is shown in Example 2.

Examples 2

Calculation of Standardized Cost Per Case

Adjusted cost per case = $1922.

Hospital intern and resident to bed ratio (based on 686 bed facility with 77 FTE interns and residents)

(77 ÷ 686) − .1 = 1.1224

Education adjustment factor = .0606

Adjusted cost per case, standardized for differences in teaching activity.

$1922 ÷ [1.0+(1.1224) (.0606)] = $1799.60

Labor-related portion of adjusted cost per case, standardized for differences in teaching activity.

$1799.60 × .8077 = $1453.54

Non-labor portion of adjusted cost per case, standardized for differences in teaching activity.

$1799.60 − $1453.54 = $346.06

Adjusted cost per case, standardized for area wage differences.

$1453.54 ÷ 1.3979 (New York SMSA) + $346.06 = $1385.86

Outliners, i.e., all cases in each DRG for which the standardized cost values were outside three standard deviations from the geometric mean of the values for the DRG, were eliminated. The weight for each of the 356 DRGs was calculated by summing the standardized adjusted costs for all cases in the DRG and dividing that amount by the number of cases classified in the DRG.

6. *Calculation of case-mix index.* To calculate each hospital's individual Medicare case-mix index, we multiplied the proportion of the hospital's Medicare cases in each DRG by the standardized cost weight for the DRG. We then summed these products to obtain an expected cost per case for each hospital. We then summed the expected per case costs for all hospitals, and divided the result by the total number of hospitals included in our data base. This produced an expected average cost per case for all hospitals. Finally, for each hospital, we divided the expected cost per case for that hospital by the average expected cost per case for all hospitals. The result of this division is the individual hospital's Medicare case-mix index. Appendix II lists the case-mix indexes for all hospitals in our data base.

Example 3 illustrates the calculation of the Medicare case-mix index.

EXAMPLE 3.—Calculation of Medicare Case-Mix Index: Proportion of Medicare Discharges by DRG (Percent)[1]

Hospital	DRG 1	DRG 2	DRG 3	DRG 4	DRG 5	Total (percent)	DRG weighted expected cost per case[2]	Case mix index 3
A	2.5	27.3	10.5	41.5	18.2	100	$1,660.40	.8900
B	21.0	.9	30.1	2.0	46.0	100	2,401.30	1.2872
C	40.6	5.0	2.3	47.2	4.9	100	1,346.30	.7227
D	5.1	18.4	62.5	10.0	4.0	100	2,990.70	1.6031
E	30.4	65.0	1.0	1.6	2.0	100	929.00	.4980
Average proportion for all hospitals	19.92	23.32	21.28	20.46	15.02	100	1,865.54	
DRG cost weight	$1,000	$800	$4,100	$1,500	$2,000			

[1]Adjusted to make these 5 DRGs hypothetically represent all 356 Medicare DRG's
[2]For hospital A, Calculated as follows: .025 (1000)+.273 (800)+.105 (4100)+.415 (1500)+.182 (2000)=$1660.40
[3]For hospital A, calculated as $1660.40 divided by $1865.54=.8900

B. Application of the Case-Mix Index

Using the actuarial and market basket rates of inflation cited in section II J, we adjusted each hospital's average cost per Medicare discharge to April 1, 1983, the midpoint of the first cost reporting period to which the limits apply. We then divided each hospital's cost per Medicare discharge by the Medicare case-mix index for that hospital. The effect of this calculation is to eliminate cost differences due to differences in case mix. We then applied the education cost and wage index adjustments, calculated the mean labor-related component and mean non-labor component of cost per discharge for each hospital classificatioin group, and established limit components set at 120 percent of each mean (see steps 1 through 6 of section VII A, "Development of Published Limits").

In calculating each hospital's individual limit, the intermediary will multiply the hospital's labor-adjusted limit (i.e. the sum of (1) the product of the labor-related component and the wage index and (2) the non-labor component) by the case-mix index for that hospital, in order to calculate the hospital's case-mix adjusted limit. The intemediary will then apply the education cost adjustment, if applicable, and the cost reporting year adjustment, if applicable, to calculate the per-discharge limit for the particular hospital. A step-by-step explanation of the calculation of each individual hospital's limit is contained in section VII B.

C. Further Information Regarding Case-Mix Index

A detailed technical explanation of the development of the Medicare case-mix index is available on request. Requests for a copy of this explanation should be sent to: Marilyn Koch, Health Care Financing Administration, Room 192 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207.

IV. Alternates To Use of Published Case Mix Index

A. Use of Greater of Actual Case-Mix Index or Group Average Case-Mix Index

As explained in section III, we calculated each hospital's case-mix index based on data from three sources. These include Medicare billing data from the MEDPAR file, which represents a 20 percent sample of all Medicare hospital bills submitted for calendar year 1980, our discharge bill file for calendar year 1980, and the most recent Medicare cost reports available as of May 1, 1981. Although the data in these records generally are complete and accurate, the number of sample bills submitted by some hospitals that otherwise would be subject to the limits is insufficient to enable us to calculate statistically reliable Medicare case-mix indexes for them. Therefore, we did not have sufficient information to calculate statistically reliable case-mix indexes for all hospitals subject to the new limits.

We believe the limits can be applied to these hospitals without disadvantage to them by using the higher of the hospital's actual case-mix index

calculated from the available information or the average case-mix index for the hospital's classification group. (See Section VII B.3., Adjustment by Case-Mix Index). Therefore, we have adopted this approach in setting limits for these hospitals. Case mix indexes that do not meet our required statistical precision criteria are asterisked in Appendix II. Table IV contains the average case mix index for each hospital classification group. To determine the cost per discharge limit for those providers with statistically questionable case mix indexes, the fiscal intermediaries will use the higher of the index in Table IV, corresponding to the hospital's classification group, or the hospital's actual index in Appendix II. Where the hospital is not included in Appendix II, the intermediary will use the average index value for the hospital's group, as shown in Table IV.

B. Calculation of Case-Mix Index Based on Total Medicare Discharges

We believe the data from the MEDPAR file provide a reasonably accurate representation of the clinical mix of Medicare discharges for most hospitals.

While we are confident of the accuracy of the case-mix indexes for hospitals as a whole, we realize that inaccuracies could exist in some cases. Because data deficiencies could lead to inaccurate case-mix index values for some hospitals, we believe it is appropriate to offer hospitals, for a limited time, the opportunity to submit corrected discharge data and to have their case-mix index values recalculated based on the corrected data. To obtain a recalculation of its case mix index, a hospital would have to submit to HCFA a record of all its Medicare discharges for the calendar year for which we obtained the MEDPAR sample used to establish the limits. For the limits effective October 1, 1982 the year involved is 1980. These discharge records would have to be coded using ICD–9–CM codes, and would have to be available on magnetic tape in a manner that would facilitate their processing.

When we receive the revised data submitted by the hospital according to HCFA specifications, we will recalculate the hospital's case mix index based on these data. We will then use the recalculated index, rather than the index based on the MEDPAR sample, to calculate the hospital's limit. We wish to note that since the recalculated index will presumably be more accurate than the published index, we plan to use the recalculated index even in those cases in which it will result in a lower limit for the hospital. The national DRG cost weights applicable in the original calculation will, however, be retained in deriving the recalculated case mix index.

We will permit hospitals to request this recalculation only for cost reporting periods beginning within the first 12 months following the effective date of the new limits. To obtain a recalculation, a hospital will be required to file its request within 180 days after the end of the hospital's first cost reporting period for which the new limits are effective. This period should be long enough to permit hospitals to improve the accuracy of their discharge data. We expect that, in later periods, hospitals will be able to assure that their discharge date are accurate before these data are submitted.

Our requirement that data be submitted on magnetic tape using ICD–9–CM coding is needed to enable us to act on recalculation requests in a timely and efficient manner. As a practical matter, we could not deal with these requests efficiently unless the revised discharge information could be processed electronically.

C. Recalculation of Limit to Reflect Changes in Case Mix

The Medicare case-mix index is intended to recognize the relative costliness of a hospital's case-mix compared to a standard reflecting the average case mix for all hospitals. The pattern of distribution of cases among hospitals tends to be similar from year to year. That is, hospitals that have large volumes of complicated cases in one period also tend to have large volumes of complicated cases in other periods. Likewise, hospitals that treat relatively simple cases in one period tend to repeat that experience in other periods. This reflects the evolution of a system in which highly sophisticated services are concentrated in certain facilities to which patients can be referred for specialized treatment.

Since hospitals tend to treat similar types of patients from one period to the next, we believe the case-mix index can be applied prospectively. However, we understand that events can occur that will abruptly and significantly alter the case mix of an individual hosptial. For example, the addition of an entirely new service e.g. a regional trauma center, could quickly change a hospital's case mix. Similarly, the merger of two facilities with different levels of specialization could result in a case mix for the surviving entity that is different from that of either facility. If a significant and abrupt change in case mix is the direct result of an identifiable event occurring between the base year used in developing the case-mix index and the year to which the limit will apply, we believe it is appropriate to recognize the effect of the change. Therefore, we are amending the Medicare regulations at 42 CFR 405.460 to provide an exception that would allow the Medicare case-mix index to be recomputed based on actual case mix in the year of application of the limit, if the hospital can show that the change in case mix is the result of a specific change in organization, range of services, medical specialty, or another particular and identifiable event. The interim final rule that makes this change is published elsewhere in this issue of the **Federal Register.**

V. Impact Analysis

A. Executive Order 12291

Section 1(b) of Executive Order 12291 states that a major rule is one that will:

(1) Have an annual effect on the economy of $100 million or more;

(2) Result in a major increase in costs or prices for consumers, individual industries, or government agencies, or geographic regions; or

(3) Have 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.

We estimate that for fiscal year 1983, implementation of these new limits will result in additional net savings of $75 million over the estimated savings of $333 million we would realize under the current routine cost limits. For fiscal year 1984, we estimate that the new limits will result in net savings of $405 million in addition to the $376 million savings we would realize under the routine limits. For fiscal year 1985, we are estimating additional net savings of $1.03 billion over the $426 million in savings that would occur under the routine limits. Also, we expect that there will be substantial additional savings as a result of implementation of the rate of increase ceiling required by section 1886(b) of the Social Security Act. These savings are described in the preamble to the interim final rule (published elsewhere in this issue of the **Federal Register**) that implements that provision.

Although we believe these new limits will have an annual effect on the economy that approaches the threshold specified in the Executive Order, we have determined this impact will be caused by section 101(a) of Pub. L. ——, which requires imposition of the limits, rather than by this notice, which merely implements the statutory provisions. We

have made this determination because the major features of the new limits are specified in the statute, and we do not have administrative discretion to develop alternatives to them. While the statute does allow the Secretary administrative discretion with respect to certain features of the new limits (e.g., the exclusion, for reasons related to the availability of discharge data, of children's and long-term care hospitals), these discretionary features will not have an impact of $100 million or more, or meet the other threshold criteria of the Order. Therefore, a regulatory impact analysis is not required.

While Executive Order 12291 does not require us to perform a regulatory impact analysis, the application of total cost limits represents a significant advance over the routine cost limits, and can be expected to have a major effect on hospital operations. Therefore, we are providing the following discussion of the expected effects of the new limits. This discussion, and the preamble as a whole, constitute a regulatory impact analysis.

As noted earlier in this preamble, the hospital cost limits in the past have been restricted to general routine costs for a number of reasons. Chief among these reasons was the fact that routine services (composed mainly of bed, board, and routine nursing services) tend to be similar among institutions, thereby allowing for comparison among institutions of the cost of these services. However, cost of ancillary services tends to vary significantly among institutions depending on the types of patients treated. Until recently, there was no suitable methodology available by which we could explicitly take differences in hospital case mix into account when establishing cost limits.

The development of the Diagnosis Related Group (DRG) case classification system referred to in this notice now permits us to compute an adjustment for each hospital that makes reasonable allowance for the resource implications of the type and mix of cases treated by the institution. Application of the case mix index, wage index, and teaching adjustments to each hospital's cost per discharge permits greater standardization of each hospital's costs, thus permitting the derivation of limits which act as improved measures of hospital efficiency.

We also expect the total cost limits presented in this notice will be an improvement on the current system of per diem reimbursement. Generally, the marginal cost of caring for a patient declines the longer that patient stays in the hospital. This is because patients generally require the closest observation during the first few days of a hospital stay. This means that a hospital can reduce its average per diem costs by increasing the average length of stay of its inpatients, even though in this way it may be increasing its overall costs. By thus reducing its per diem costs, the hospital may appear efficient with respect to the per diem limits, even though it is actually operating in an inefficient manner.

The new cost limits will alleviate this problem because they are computed and applied on a per discharge basis. A hospital's aggregate limit will be computed by multiplying its per case limit by the number of its discharges. Each discharge will have an equal weight in this calculation (differences due to the hospital's case mix having already been accounted for through application of the individual hospital's case-mix index). The incentive under the total cost limits system will be for hospitals to keep patients only so long as is medically necessary. In this sense, the total cost limits will act as a check on hospital utilization.

In addition to methodological advances which now allow the computation of total hospital cost limits, we anticipate that the new limits, by encouraging efficiency in hospital behavior, will help to slow the rapid rise in hospital costs, particularly with regard to ancillary services.

The costs of ancillary services and special care services have been rising at a more rapid rate than the costs of general routine services. In part, this may be attributable to the deterrent effect which the cost limits have had in the general routine area. In addition to actual disallowances under the general routine limits, we believe hospitals may have altered their practices in anticipation of disallowances, so as to avoid those disallowances. Consequently, the rise in the cost of those services subject to the routine limits has been less than the rise in the cost of those services not subject to limitation in the past. We would expect that cost limits which encompass ancillary and special care services, as well as general routine services, would promote efficient behavior on the part of hospitals across the entire spectrum of inpatient services.

We believe that any actions the Federal Government takes with respect to bringing about efficient economic behavior in hospitals should create incentives for such behavior, but should interfere as little as possible in the actual methods used to achieve economic efficiency. We believe the total cost limits set forth in this notice meet these requirements. While we are setting an upper limit on Medicare payment for total hospital inpatient operating costs, we are not prescribing the methods hospitals must emloy to ahieve the necessary economies. Rather, a hospital will be free to experiment with any number of cost saving methods and measures, and to choose the ones most appropriate for its individual situation. This reliance on individual hospital initiative should encourage competition among hospitals and a reduction in the rate of increase in hospital costs, while ensuring that Medicare beneficiaries continue to have access to needed hospital services.

We also realize that there may be cases where hospitals, even though they exceed the limits, are operating efficiently. To equitably provide relief in these situations, thereby insuring that these facilities are reimbursed the reasonable costs of their services in accordance with the law, there are a number of exemptions and exceptions available.

For further information on exceptions and exemptions, see the final regulations implementing section 1886 of the Social Security Act that are published elsewhere in this issue of the **Federal Register.**

B. Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this final notice will not in itself result in a significant impact on a substantial number of small entities. Under the Regulatory Flexibility Act, the great majority of hospitals (e.g., all non-profit hospitals, regardless of size) are "small entities." The potential impact of this notice will fall on about 20 percent of the hospitals affected by the limits on inpatient operating costs, with an average potential Medicare reimbursement reduction of about 2 percent. However, any adverse consequences of this impact can be avoided through the cost containment efforts we expect hospitals will make. Accordingly, we do believe that a substantial number will actually experience a significant impact. In any event, any impact will be the result of the statutory provisions (section 101(a) of Pub. L. 97–248), and not of the regulations that implement these provisions. Therefore, a regulatory flexibility analysis is not required.

Although a regulatory flexibility analysis is not required, we are aware that some hospitals may be concerned about the impact of these limits. For the benefit of these hospitals, and to forestall any unnecessary concern

regarding the effect of the limits, we are providing the following analysis which, together with this preamble taken as whole, constitutes the regulatory flexibility analysis.

Under section 1861(v) of the Social Security Act, the Secretary may pay no more than the reasonable cost of covered services furnished to Medicare beneficiaries. This requirement applies to services furnished by all Medicare participating hospitals regardless of size. Both section 1861(v) and section 1886(a) of the Social Security Act require the Secretary to set limits on the costs that will be recognized as reasonable. In computing these limits, we rely on actual costs facilities have incurred. However, we realize that it may be inequitable to compare the costs of facilities for purposes of computing limits without taking into account the size of those facilities. Therefore, since the inception of the cost limits, we have classified hospitals by bed size, that is, by number of beds, (as well as geographic location) and only compared a hospital's costs with the costs of other hospitals in the same bed size groping. The limits contained in this notice are based on the same bed size classifications we have used in previous schedules of limits. In this manner, we have in large measure recognized that small hospitals should be treated similarly as a group and that their costs should not be compared with the costs of large institutions when developing limits.

To the extent that the reasonable cost requirements of the Medicare law apply to all participating hospitals, the considerations discussed above in the Executive Order analysis apply to small hospitals. However, we would particularly like to stress the fact that the limits contained in this notice represent an upper ceiling on the amount the Medicare program will pay for inpatient hospital services. We do not specify or require any particular methods or courses of action which hospitals must employ to avoid exceeding the limits. How to achieve the necessary economies is left up to each indivdual hospital. We recognize that the methods which individual hospitals employ will be dependent upon many factors, and that what works well for a large, teaching hospital may not be appropriate for a small community hospital. Therefore, we believe it is important that each hospital retain the flexibility to structure its own operations in such a way as to achieve the necessary efficiencies consistent with the continued provision of needed health services to Medicare beneficiaries.

We have compared the impact of the proposed limits contained in this notice on small hospitals (defined as those having less than 100 beds) with the impact of the limits on all providers. Our data indicate that the limits on this notice will impact 20.5 percent of all hospitals subject to the limits. Our data further indicate that 25.5 percent of urban hospitals with less than 100 beds will be impacted, and 21.4 percent of rural hospitals with less than 100 beds will be impacted. (This does not include rural hospitals with less than 50 beds on September 3, 1982, the date of enactment of Pub. L. 97–248. These hospitals are specifically exempted by the statute from the new limits.)

The following tables show our estimate of the impact these limits will have by cell grouping as well as by geographic regions.

TABLE A

Group	Percent impacted
Urban:	
Less than 100	25.5
100–404	20.2
404–684	18.1
685 and above	22.0
Rural:	
Less than 100	21.4
100–169	17.0
170 and above	14.7

TABLE B

Region	Percent impacted
New England	26.2
Middle Atlantic	17.1
East North Central	26.2
West North Central	22.2
South Atlantic	14.6
East South Central	11.2
West South Central	14.8
Mountain	22.8
Pacific	31.9

Waiver of Public Comment Period and of 30-Day Delay in Effective Date

As noted earlier in this preamble, the legislation that requires us to issue the new limits specifies the major features of the limits methodology, and allows us very limited administrative discretion in determining how the new limits will be developed and applied. In view of the specificity of this legislation, we believe that publication of the new limits for public comments before their implementation is unnecessary, and would not contribute to the clarification of any issues.

Moreover, section 101 of Pub. L. 97–248 specifies that the new limits are to be effective for hospital cost reporting periods beginning on or after October 1, 1982. To have these limits in place as close as possible to the effective date specified in the law, we must publish this notice as soon as possible. The Congress itself took note of this in section 101(b)(2)(A) by instructing the Secretary to issue final regulations, whether on an interim or other basis, before October 1, 1982, the effective date of the law. In our view, the statutory language is sufficiently clear to support implementation of the new limits effective October 1, 1982. Therefore, in consideration of the need to implement these limits promptly, we believe delaying their implementation by even the minimum amount of time usually allowed for public comment (30 days) would be impractical.

In addition, to the extent that Federal spending will be reduced by timely implementation of the limits on inpatient operating costs, we believe that any delay in implementation due to the publication of proposed rulemaking would be contrary to the public interest.

Therefore, we find good cause to waive a prior public comment period, and to issue this notice in final form. For the same reasons, and in light of the statutory requirement that these limits be effective for hospital cost reporting periods beginning on or after October 1, 1982, we find good cause to waive the usual 30-day delay in effective date. We will, however, consider any comments on this notice that are received by the date specified above in the "DATES" section and make any further changes that may be necessary.

VI. Other Required Information

A. Public Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, we will consider any comments on this notice that are received by the date specified in the "DATES" section. If as a result of public comments we conclude that changes in this interim final notice are needed, we will include these changes in the final notice described in item B below.

B. Publication of Final Notice

Section 101(b)(1) of Pub. L. 97–248 specifically requires the Secretary of HHS to first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be needed to implement sections 1886(a) and (b) of the Social Security Act on a timely basis. This legislation further requires that if these regulations are promulgated on an interim final basis, the Secretary shall provide an

opportunity for public comment, and for appropriate revision of these regulations, so that they are not on an interim basis later than March 31, 1983.

To comply with these requirements, we are published this notice on an interim final basis. As required by the law, we will consider all public comments we receive, determine whether changes in this interim final notice are needed, and publish a final notice implementing section 1886(a) by March 31, 1983.

VII. Methodology for Determining Per Discharge Inpatient Operating Cost Limits

A. Development of Published Limits

1. *Data.* We developed the limits by using actual hospital inpatient operating costs per Medicare discharge that we obtained from the latest Medicare cost reports available as of May 1, 1981. In developing the group limits, we excluded data from long-term care hospitals, children's hospitals, and rural hospitals with fewer than 50 beds. From the remaining cost reports, we excluded capital-related costs and the direct costs of the interns and residents (in approved programs) and nursing school cost centers. We then adjusted the per discharge cost data for inflation, using the annual rates cited in section II J, by projecting these data from the cost reporting periods used in the data collection to April 1, 1983, the midpoint of the first cost reporting period to which the limits apply.

2. *Use of Case-Mix Index to Adjust Cost Data.* We divided each hospital's Medicare inpatient operating cost per discharge by the case-mix index for the hospital to obtain a case-mix adjusted inpatient operating cost per Medicare discharge.

Example: After adjustment for inflation, the average cost per discharge of a 686-bed hospital in Queens County, New York, is $2000.00. The hospital's Medicare case-mix index is 1.2150.

$2000.00 ÷ 1.2150 = $1646.09, which is the hospital's case-mix adjusted inpatient operating cost per discharge.

3. *Adjustment for Education Costs.* After adjusting each hospital's inpatient operating cost per discharge for inflation and case-mix complexity, we divided each cost by 1.0 plus the product of the education adjustment factor (6.06 percent) and the individual hospital's adjusted intern-and-resident to bed ratio. We determined that adjusted ratio by dividing the number of FTE interns and residents for the cost reporting period to which the average cost per discharge applies by the hospital's bed size determined at the beginning of that period to obtain the hospital's intern-and-resident to bed ratio, and dividing that ratio by .1.

Example: After adjustment for inflation and case-mix complexity, the per discharge inpatient operating cost of a 686-bed hospital in Queens County, New York, is $1646.09. The hospital employed 77 FTE interns and residents in approved teaching programs.

The per case cost is adjusted for education costs as follows:

77 ÷ 686 = .11224, which is the intern-and-resident to bed ratio for this hospital.

.1122 ÷ .1 = 1.12240—Adjusted Ratio

$16464.09 ÷ [1 + (.0606 × 1.1224)] = $1541.26, Education-adjusted cost per discharge.

This adjusted per discharge cost is divided into labor-related and non-labor components. The labor-related component is adjusted by the wage index and the two components are used to calculate the group means (see steps 4, 5 and 6 below).

4. *Use of Wage Index to Adjust Cost Data.* We divided each hospital's case-mix and education adjusted inpatient operating cost per discharge into labor-related and non-labor portions. To determine the labor-related portion of cost, we multiplied each hospital's adjusted per discharge operating cost by 80.77 percent, which is the labor-related portion of cost from the market basket. We then divided the labor-related portion of each hospital's per discharge cost by the wage index applicable to the hospital's area (see Tables IIIA and IIIB) to arrive at an adjusted labor-related portion of inpatient operating cost per discharge:

$1541.26 × .8077 = $1244.88, Labor related portion of cost per discharge

$1541.26 − $1244.88 = $296.38, Non-labor related portion of cost per discharge

$1244.88 ÷ 1.3979 = $890.54, Adjusted labor-related portion of cost per discharge

5. *Group Means.* We calculated separate means of labor-related and non-labor inpatient operating costs per discharge for each group established in accordance with the hospitals' urban/rural location and bed size.

6. *Components of Limit.* For each group, we multiplied the mean labor-related and mean non-labor costs by 120 percent (see Tables I and II).

B. Calculation of Individual Hospital Limit

1. *Cost-of-Living Adjustment (Alaska, Hawaii and Puerto Rico Hospitals Only).* If a hospital is located in Alaska, Hawaii, or Puerto Rico, the hospital's intermediary will multiply the non-labor component for the hospital's group (see Tables I and II) by the appropriate cost-of-living adjustment factor from the following list. The intermediary will use the adjusted non-labor component in computing the hospital's limit.

Location	Cost-of-living adjustment factor
Alaska:	
Anchorage	1.225
All others	1.250
Hawaii:	
Oahu	1.175
Kauai	1.175
Molakai	1.175
Maui and Lanai	1.175
Hawaii	1.100
Puerto Rico	1.075

Example—Calculation of Cost-of-Living Adjusted Non-Labor Component for a 400-bed Hospital Located in Anchorage, Alaska.

Non-Labor Component $731.05 (Published in Table I.) Adjustment Factor for Anchorage, Alaska = 1.225; $731.05 x 1.225 = $895.54 Cost-of-Living Adjusted Non-Labor Component.

3. *Adjustment of Labor Related Component by Wage Index.* To arrive at a labor-adjusted limit for each hospital, the hospital's Medicare intermediary will multiply the labor-related component for the hospital's group by the wage index developed from the wage levels for hospital workers in the area in which the hospital is located (see Tables IIIA and IIIB). The individual limit for any hospital will be the sum of the non-labor component, plus the wage adjusted labor-related component.

Example—Calculation of labor-adjusted Limit for a 686-bed Hospital Located in Queens County, New York.

Non-Labor Component—$881.65(published in Table I).

Labor-related Component—$3199.78(published in Table I).

New York, NY–NJ SMSA Wage Index—1.3979(published in Table IIIA).

Computation of Adjusted Limit

$3199.78 × 1.3979 (wage index) = $4472.97—Adjusted Labor Component

$4472.97 (Adjusted Labor component) + $881.65 (Non-Labor Component) = $5354.62 Labor-adjusted limit.

3. *Adjustment By Case-Mix Index.* To adjust each hospital's limit for case-mix complexity, the Medicare intermediary will multiply the hospital's labor-adjusted limit from step 2 by the assigned case-mix index for the particular hospital (see Appendix II). For hospitals for which a statistically valid case mix index could not be calculated (identified by an asterisk in the list of case-mix indexes) the intermediary will

use the higher of the calculated index value or the average index value for the hospital's group, shown in Table IV. Where a hospital is not included in Appendix III, the intermediary will use the average index value for the hospital's group shown in Table IV.

Example: A 686-bed hospital in Queens County, New York has a labor-adjusted limit of $5354.62. The case-mix index for the hospital is 1.1500..

Labor-adjusted limit $5354.62 × case-mix index 1.1500 = $6157.81, which is the hospital's case-mix adjusted limit.

4. *Education Cost Adjustment.* If a hospital has a graduate medical education program approved under 42 CFR 405.421, the Medicare intermediary will increase the hospital's limit by 6.06 percent for each .1 increase (above zero) in the hospital's ratio of full-time equivalent (FTE) interns and residents (in approved programs) to its bed size. The number of full-time equivalent interns and residents is the sum of:

1. Interns and residents employed for 35 hours or more per week, and

2. One half of the total number of interns and residents working less than 35 hours per week (regardless of the number of hours worked).

For purposes of this adjustment, a hospital will be allowed to count only interns and residents in teaching programs approved under 42 CFR 405.421 who are employed at the hospital. Interns and residents in unapproved programs and those who are on the hospital's payroll but furnish services at another site will not be taken into account in making this adjustment. In determining the amount of the prospective adjustment, the fiscal intermediary will use the number of interns and residents employed on the September 30 immediately preceding the first cost reporting period subject to the new limits. In those instances where this figure is unavailble, the intermediary will use the number of interns and residents for the September 30 of the latest available cost reporting period. The hospital will report to its intermediary, 45 days before the start of each cost reporting period, the number of FTE interns and residents it employed on September 30, immediately preceding the date on which this report is due. The intermediary will calculate the amount of the education cost adjustment based on that report, and will adjust the hospital's limit retroactively at final settlement if, for a cost reporting year, a hospital actually employed more or fewer FTE interns and residents on September 30 of that period than the number it reported.

Example—A 686-bed hospital in Queens County, New York has an adjusted limit of $6157.81 for the cost reporting period beginning October 1, 1982. The hospital employed 77 FTE interns and residents in approved teaching programs on September 30, 1981, the latest reporting period for which the number of interns and residents is available.

77 ÷ 686 = .11224 Ratio of FTE interns and residents to beds

Ratio .1122 ÷ .1 = 1.1224 Adjusted ratio

The Education Adjustment Factor is .0606.

Case-mix adjusted limit $6157.81 × [1 + .0606 (education adjustment factor) × 1.1224] (adjusted ratio) = $6157.81 × [1.06802] = $6576.66 Education—adjusted limit.

If the number of FTE interns and residents the hospital employs on September 30, 1983, is more or less than 77, the intermediary will adjust the hospital's limit at the time of final settlement of the hospital's cost report.

If a hospital does not have a graduate medical education program approved under 42 CFR 405.421, the education adjustment will not apply.

5. *Adjustment for Cost Reporting Year.* If a hospital has a cost reporting period beginning on or after November 1, 1982, the intermediary will increase the limit that would otherwise apply to the hospital by the factor from Table V that corresponds to the month and year in which the cost reporting period begins. Each factor represents the monthly increase that we derived by dividing the projected annual percentage increase in the market basket index plus one percentage point by twelve. This adjustment is needed to account for price increases that occur after the date on which the limits are effective.

Example—A 686-bed hospital in Queens County, New York has a cost reporting period that begins January 1, 1983.

The otherwise applicable cost per discharge limit for the hospital is $5000.00.

Computation of Revised Hospital Limit

Individual Hospital Adjusted Limit—$5000.00

Adjustment factor from Table V—1.01975

Adjustment Limit $5000.00 × Adjustment factor 1.01975

Revised limit $5098.75

If a hospital uses a cost reporting period that is not 12 months in duration, a special calculation of the adjustment factor must be made. This results from the fact that projections are computed to the end of a cost reporting period and the adjustment factors in Table V are based on an assumed 12 month reporting period. For cost reporting periods other than 12 months, the calculation must be done specifically for the midpoint of the cost reporting period. The hospital's intermediary will obtain this adjustment factor from HCFA.

6. *Implementation of Hold Harmless Provisions.* The proper implementation of the "hold harmless" provision in section 1886(a)(1)(C) of the Social Security Act will require the fiscal intermediaries to calculate the base period inpatient operating cost per discharge for all hospitals subject to the new limits. Base period inpatient operating costs must exclude, to the extent feasible, capital, medical education, and malpractice insurance costs. The following examples illustrate the operation of the hold harmless provision:

Example 1

Hospital A's total Medicare reimbursement for allowable inpatient operating costs (excluding capital medical education, and malpractice insurance costs) for the fiscal year October 1, 1981 through September 30, 1982 was $5,000,000. During this period, Hospital A had 5000 Medicare discharges for an average inpatient operating cost per discharge of $1000. For the reporting period October 1, 1982 through September 30, 1983, Hospital A incurred Medicare inpatient operating costs of $6,000,000 and had 5300 Medicare discharges. A's Medicare reimbursement for inpatient operating costs for the period October 1, 1982 through September 30, 1983 cannot be less than 5300 × $1,000 or $5,300,000.

Example 2

Hospital B's total Medicare reimbursement for inpatient operating costs for the period October 1, 1981 through September 30, 1982 was $4,000,000. During this period, B had 2,000 Medicare discharges for an average cost per discharge of $2,000. Effective January 1, 1983, B changed ownership, but does not qualify for a new hospital exemption. For the short cost reporting period October 1, 1982 through December 31, 1982, B's Medicare inpatient operating costs were $1,200,000. Based on 550 Medicare discharges, B's reimbursement for allowable inpatient operating costs cannot be less than 550 x $2,000 or $1,100,000. Because B does not qualify as a new provider 1/1/83, the hospital is considered to be delivering the same services to the same population both before and after the change of ownership. For the short period 1/1/83

through 9/30/83, B's Medicare inpatient operating costs were $3,190,000 based on 1450 Medicare discharge costs cannot be less than 1450 x $2,000 or $2,900,000.

Example 3

Some as example 2 except that effective 1/1/83, B changed ownership and qualified for a new hospital exemption because of a complete change in service i.e., B limits its practice to orthopedic surgery with no general medical surgical practice. For the short cost reporting period October 1, 1982 through December 31, 1982, B's reimbursement is identical to that in Example 2. For the short period 1/1/83 through 9/30/83, B may be exempt from the limits as a new hospital.

HCFA will issue instructions providing a more detailed explanation of the calculations of base period inpatient operating costs to be used for the hold harmless provision, including the treatment of other than 12 month cost reporting periods. While it will be necessary for the intermediary to reduce interim payments to providers who are expected to exceed the cost limits, it should not be necessary to reduce interim payments below the prior year's amount.

C. Schedule of Limits

Under the authority of sections 1861(v) and 1886(a) of the Social Security Act, the following per discharge limits, will apply to hospital inpatient operating costs for cost reporting periods beginning on or after October 1, 1982. Medicare fiscal intermediaries will compute the adjusted limits using the methodology set forth in this notice and notify each hospital of its applicable limit.

TABLE I.—HOSPITALS LOCATED IN SMSA/NECMA [1]

Bed size	Labor-related component	Nonlabor component
Less than 100	$2,394.70	$616.48
100 to 404	2,778.13	731.05
405 to 684	2,897.76	765.57
685 and above	3,199.78	881.65

[1] Nonlabor components for hospitals located in Alaska, Hawaii, and Puerto Rico will be increased by multiplying them by the following cost-of-living adjustment factors:

Location:	Adjustment factor
Alaska:	
Anchorage	1.225
All others	1.250
Hawaii:	
Oahu	1.175
Kauai	1.175
Malokai	1.175
Maui and Lanai	1.175
Hawaii	1.100
Puerto Rico	1.075

TABLE II.—HOSPITALS LOCATED IN NON-SMSA/NON-NECMA AREAS

Bed size	Labor-related component	Nonlabor component [1]
Less than 100	$2,215.88	$459.23
100 to 169	2,429.93	505.61
170 and above	2,490.11	528.42

[1] Nonlabor components for hospitals located in Alaska, Hawaii, and Puerto Rico will be increased by multiplying them by the following cost-of-living adjustment factors:

Location:	Adjustment factor
Alaska:	
Anchorage	1.225
All others	1.250
Hawaii:	
Oahu	1.175
Kauai	1.175
Malokai	1.175
Maui and Lanai	1.175
Hawaii	1.100
Puerto Rico	1.075

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS

SMSA area	Wage index
Abilene, TX	.8360
Akron, OH	1.0997
Albany, GA	[1].8712
Albany-Schenectady-Troy, NY	.9645
Albuquerque, NM	1.0380
Alexandria, LA	.9619
Allentown-Bethlehem-Easton, PA-NJ	1.0506
Altoona, PA	1.0463
Amarillo, TX	.9449
Anaheim-Santa Ana-Garden Grove, CA	1.2853
Anchorage, AK	1.5992
Anderson, IN	.9850
Anderson, SC	.8712
Ann Arbor, MI	1.2883
Anniston, AL	.8882
Appleton-Oshkosh, WI	.9620
Arecibo, PR	.6481
Asheville, NC	1.0033
Athens, GA	.8811
Atlanta, GA	.9418
Atlantic City, NJ	1.0417
Augusta, GA-SC	.9462
Austin, TX	1.0158
Bakersfield, CA	1.1813
Baltimore, MD	1.1352
Bangor, ME	.9421
Baton Rouge, LA	.9906
Battle Creek, MI	1.0366
Bay City, MI	[1]1.0658
Beaumont-Port Arthur-Orange, TX	.9407
Bellingham, WA	[1].9181
Benton Harbor, MI	.8639
Billings, MT	[1].9762
Biloxi-Gulfport, MS	.8379
Binghamton, NY-PA	.9463
Birmingham, AL	1.0023
Bismarck, ND	.9430
Bloomington-Normal, IL	.9168
Bloomington, IN	[1].9100
Boise City, ID	1.0585
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	1.1387
Bradenton, FL	[1].9296
Bremerton, WA	.8993
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1904
Brownsville-Harlingen-San Benito, TX	.9764
Bryan-College Station, TX	.8228
Buffalo, NY	.9939
Burlington, NC	.8785
Burlington, VT	[1].9554
Caguas, PR	.6007
Canton, OH	.9637
Casper, WY	[1]1.0632

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Cedar Rapids, IA	[1].9418
Champaign-Urbana-Rantoul, IL	1.0359
Charleston, SC	1.0333
Charleston, WV	1.0869
Charlotte-Gastonia, NC	.9767
Charlottesville, VA	1.0694
Chattanooga, TN-GA	.9985
Chicago, IL	1.2013
Chico, CA	1.0813
Cincinnati, OH-KY-IN	1.0959
Clarksville-Hopkinsville, TN-KY	.8519
Cleveland, OH	1.2149
Colorado Springs, CO	1.0890
Columbia, MO	1.1961
Columbia, SC	.9874
Columbus, GA-AL	.9195
Columbus, OH	1.0803
Corpus Christi, TX	.9762
Cumberland, MD-WV	.9221
Dallas-Fort Worth, TX	1.0222
Danville, VA	[1].8960
Davenport-Rock Island-Moline, IA-IL	.9804
Dayton, OH	1.1240
Daytona Beach, FL	.8804
Decatur, IL	[1]1.0023
Denver-Boulder, CO	1.1952
Des Moines, IA	1.0597
Detroit, MI	1.2516
Dubuque, IA	.9685
Duluth-Superior, MN-WI	.9252
Eau Claire, WI	.9102
El Paso, TX	.8765
Elkhart, IN	[1].9100
Elmira, NY	1.0249
Enid, OK	.9247
Erie, PA	.9804
Eugene-Springfield, OR	.9554
Evansville, IN-KY	1.0438
Fargo-Moorhead, ND-MN	1.0057
Fayetteville, NC	[1].8618
Fayetteville-Springdale, AR	.8155
Flint, MI	1.1849
Florence, AL	.8223
Florence, SC	.8445
Fort Collins, CO	.9121
Fort Lauderdale-Hollywood, FL	1.0830
Fort Meyers, FL	.9389
Fort Smith, AR-OK	.9318
Fort Walton Beach, FL	[1].7921
Fort Wayne, IN	.9222
Fresno, CA	1.2345
Gadsden, AL	.9316
Gainesville, FL	.9496
Galveston-Texas City, TX	1.0940
Gary-Hammond-East Chicago, IN	1.1438
Glens Falls, NY	.9078
Grand Forks, ND-MN	.8120
Grand Rapids, MI	.9905
Great Falls, MT	[1].9406
Greeley, CO	[1]1.0158
Green Bay, WI	1.0100
Greensboro-Winston-Salem-High Point, NC	.9463
Greenville-Spartanburg, SC	.9802
Hagerstown, MD	1.0411
Hamilton-Middletown, OH	1.0706
Harrisburg, PA	1.0608
Hartford-New Britain-Bristol, CT	1.1760
Hickory, NC	.8509
Honolulu, HI	1.1867
Houston, TX	1.1222
Huntington-Ashland, WV-KY-OH	.9534
Huntsville, AL	.8827
Indianapolis, IN	1.0551
Iowa City, IA	1.1812
Jackson, MI	[1]1.0561
Jackson, MS	.9192
Jacksonville, FL	.9777
Jacksonville, NC	[1].9059
Janesville-Beloit, WI	.8912
Jersey City, NJ	1.1350
Johnson City-Kingsport-Bristol, TN-VA	.8975
Johnstown, PA	1.0642
Joplin, MO	.8965
Kalamazoo-Portage, MI	1.2181
Kankakee, IL	.9784
Kansas City, MO-KS	.9846
Kenosha, WI	[1]1.1136

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Killeen-Temple, TX	.9185
Knoxville, TN	.9087
Kokomo, IN	1.0083
LaCrosse, WI	[1].9406
Lafayette, LA	1.0077
Lafayette-West Lafayette, IN	.9257
Lake Charles, LA	.9204
Lakeland-Winter Haven, FL	.8993
Lancaster, PA	1.0762
Lansing-East Lansing, MI	1.0718
Laredo, TX	.8631
Las Cruces, NM	[1].7733
Las Vegas, NV	1.2134
Lawrence, KS	[1].9678
Lawton, OK	[1].9619
Lewiston-Auburn, ME	[1].8879
Lexington-Fayette, KY	.9328
Lima, OH	1.0392
Lincoln, NE	.9347
Little Rock-North Little Rock, AR	1.0469
Long Branch-Asbury Park, NJ	1.0278
Longview, TX	.8757
Lorain-Elyria, OH	1.0438
Los Angeles-Long Beach, CA	1.3174
Louisville, KY–IN	1.0632
Lubbock, TX	.9036
Lynchburg, VA	.8747
Macon, GA	.9431
Madison, WI	1.0454
Manchester-Nashua, NH	[1].9762
Mansfield, OH	.9359
Mayaguez, PR	.5902
McAllen-Pharr-Edinburg, TX	.8269
Medford, OR	.9967
Melbourne-Titusville-Cocoa, FL	.9652
Memphis, TN–AR–MS	1.0594
Miami, FL	1.1623
Midland, TX	[1] 1.0057
Milwaukee, WI	1.0561
Minneapolis-St. Paul, MN–WI	1.0099
Mobile, AL	.9490
Modesto, CA	1.0548
Monroe, LA	.9324
Montgomery, AL	.9885
Muncie, IN	[1].9595
Muskegon-Muskegon Heights, MI	.9808
Nashville-Davidson, TN	1.0498
Nassau-Suffolk, NY	1.2886
New Bedford-Fall River, MA	.9922
New Brunswick-Perth Amboy-Sayreville, NJ	1.0618
New Haven-Westhaven-Waterbury-Meridenn, CT	1.0904
New London-Norwich, CT	1.0930
New Orleans, LA	.9842
New York, NY–NJ	1.3979
Newark, NJ	1.2061
Newark, OH	[1].9595
Newburgh-Middletown, NY	1.0483
Newport News-Hampton, VA	.9259
Norfolk-Virginia Beach-Portsmouth, VA–NC	1.0327
Northeast, PA	1.0447
Ocala, FL	[1].9418
Odessa, TX	[1].9296
Oklahoma City, OK	1.0161
Olympia, WA	[1] 1.0540
Omaha, NE–IA	.9859
Orlando, FL	.9890
Owensboro, KY	[1].8803
Oxnard-Simi Valley-Ventura, CA	1.4050
Panama City, FL	[1].8856
Parkersburg-Marietta, WV–OH	1.0064
Pascagoula-Moss Point, MS	[1] 1.1283
Paterson-Clifton-Passaic, NJ	1.0829
Pensacola, FL	.9236
Peoria, IL	1.1136
Petersburg-Hopewell, VA	.9327
Philadelphia, PA–NJ	1.1941
Phoenix, AZ	1.1383
Pine Bluff, AR	[1].7832
Pittsburgh, PA	1.1494
Pittsfield, MA	1.0335
Ponce, PR	.7832
Portland, ME	1.0113
Portland, OR–WA	1.1208
Portsmouth-Dover-Rochester, NH–ME	.8549
Poughkeepsie, NY	1.1148
Providence-Warwick-Pawtucket, RI	1.0384
Provo-Orem, UT	.9408
Pueblo, CO	1.0859
Racine, WI	.8987

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Raleigh-Durham, NC	1.0364
Reading, PA	1.0092
Redding, PA	1.0671
Reno, NV	[1] 1.3337
Richland-Kennewick, WA	.9678
Richmond, VA	.9379
Riverside-San Bernardino-Ontario, CA	1.2201
Roanoke, VA	.9948
Rochester, MN	1.0438
Rochester, NY	1.0571
Rockford, IL	1.0550
Rock Hill, SC	9181
Sacramento, CA	1.2130
Saginaw, MI	1.1289
St. Cloud, MN	.8638
St. Joseph, MO	1.0264
St. Louis, MO–IL	1.0367
Salem, OR	1.0834
Salinas-Seaside-Monterey, CA	1.2317
Salisbury-Concord, NC	1.0402
Salt Lake City-Ogden, UT	.9370
San Angelo, TX	.8521
San Antonio, TX	.9595
San Diego, CA	1.2334
San Francisco-Oakland, CA	1.3337
San Jose, CA	1.3264
San Juan, PR	.6806
Santa Barbara-Santa Maria-Lompoc, CA	1.1107
Santa Cruz, CA	1.1223
Santa Rosa, CA	1.4336
Sarasota, FL	1.0096
Savannah, GA	.9740
Seattle-Everett, WA	1.0487
Sharon, PA	1.0046
Sheboygan, WI	.8920
Sherman-Denison, TX	.8879
Shreveport, LA	1.0540
Sioux City, IA–NE	.9975
Sioux Falls, SD	.9242
South Bend, IN	.9157
Spokane, WA	1.1020
Springfield, IL	1.1235
Springfield, MO	.9079
Springfield, OH	1.0412
Springfield-Chicopee-Holyoke, MA	1.0298
State College, PA	[1] 1.1383
Steubenville-Weirton, OH–WV	.9905
Stockton, CA	1.3466
Syracuse, NY	1.5182
Tacoma, WA	1.0720
Tallahassee, FL	[1].9462
Tampa-St. Petersburg, FL	1.0066
Terre Haute, IN	.8856
Texarkana-TX-Texarkana, AR	1.1761
Toledo, OH–MI	1.1421
Topeka, KS	1.0783
Trenton, NJ	1.0906
Tucson, AZ	1.0495
Tulsa, OK	1.0220
Tuscaloosa, AL	1.0384
Tyler, TX	.9893
Utica-Rome, NY	.9977
Vallejo-Fairfield Napa, CA	1.6758
Victoria, TX	.8608
Vineland-Millville-Bridgeton, NJ	1.0070
Visalia-Tulare-Porterville, CA	1.4467
Waco, TX	.8347
Washington, DC–MD–VA	1.1908
Waterloo-Cedar Falls, IA	.8884
Wausau, WI	[1].9566
West Palm Beach-Boca Raton, FL	.9821
Wheeling, WV–OH	.9953
Wichita, KS	1.0412
Wichita, Falls, TX	.8576
Williamsport, PA	.9890
Wilmington, DE–NJ–MD	1.1092
Wilmington, NC	.9005
Worcester-Fitchburg-Leominster, MA	.9943
Yakima, WA	.9682
York, PA	1.0110
Youngstown-Warren, OH	1.1351
Yuba City, CA	1.1283

[1] Approximate value for area.

TABLE III B.—WAGE INDEX FOR RURAL AREAS

Non-SMSA area	Wage index
Alabama	.8167
Alaska	1.4136
Arizona	.9100
Arkansas	.7921
California	1.0662
Colorado	.8515
Connecticut	1.0658
Delaware	.9406
Florida	.9059
Georgia	.8586
Hawaii	1.2652
Idaho	.8991
Illinois	.8965
Indiana	.8826
Iowa	.8290
Kansas	.8205
Kentucky	.8506
Louisiana	.8515
Maine	.8960
Maryland	.9928
Massachusetts	1.0870
Michigan	1.0471
Minnesota	.8264
Mississippi	.8118
Missouri	.8479
Montana	.8803
Nebraska	.7245
Nevada	.9741
New Hampshire	1.0452
New Jersey	.9559
New Mexico	.9235
New York	.9070
North Carolina	.8810
North Dakota	.8203
Ohio	.9305
Oklahoma	.8525
Oregon	.9566
Pennsylvania	1.0428
Puerto Rico	.6438
Rhode Island	[1].9628
South Carolina	.8184
South Dakota	.7733
Tennessee	.7987
Texas	.8149
Utah	.8006
Vermont	.8808
Virginia	.8484
Washington	.9453
West Virginia	.9296
Wisconsin	.8291
Wyoming	.9782

[1] Approximate value for area.

TABLE IV.—AVERAGE CASE MIX INDEXES BY HOSPITAL CLASSIFICATION GROUP

Bed size	Mean case mix index
Urban Hospitals:	
Less than 100	.9655
100 to 404	1.0448
405 to 684	1.1048
685 and above	1.1412
Rural Hospitals:	
Less than 100	.9558
100 to 169	.9854
170 and above	1.0247

TABLE V.—COST REPORTING YEAR ADJUSTMENT FACTORS

If the hospital cost reporting period begins—	The adjustment factor is [1]—
November 1, 1982	1.00658
December 1, 1982	1.01317
January 1, 1983	1.01975
February 1, 1983	1.02692
March 1, 1983	1.03408
April 1, 1983	1.04125
May 1, 1983	1.04842
June 1, 1983	1.05558
July 1, 1983	1.06275
August 1, 1983	1.06692

TABLE V.—COST REPORTING YEAR ADJUSTMENT FACTORS—Continued

If the hospital cost reporting period begins—	The adjustment factor is [1]—
September 1, 1983	1.07708

[1] Based on projected 1983 and 1984 inflation rates (equal to the market basket plus one percentage point) of 7.9 percent and 8.6 percent, respectively.

If for any reason, we do not publish a new schedule of limits to be effective on October 1, 1983, or do not announce other changes in the current schedule, the current limits reduced to 115 percent would continue in effect. The adjustment factor would be increased by .00717 (corresponding to .717 percent) per month, until a new schedule of limits or other provision is issued.

APPENDIX I—DERIVATION OF MARKET BASKET INDEX FOR HOSPITAL INPATIENT OPERATING COSTS [1]

Cost category	Relative importance, [2] 1980	Forecaster, [3] percent changes 1981–84	Price variable used
1. Wage and salaries	57.33	DRI–CFS	Percentage change in average hourly earnings of hospital industry workers (SIC 806). Source: U.S. Department of Labor, Bureau of Labor Statistics, Employment and Earnings (monthly), Table C–2.
2. Employee benefits	8.65	DRI–MM	Percentage change in supplements to wages and salaries per worker in nonagricultural establishments. Source: For supplements to wages and salaries—U.S. Department of Commerce, Bureau of Economic Analysis, Survey of Current Business (monthly), Table 1.11. July issue has detailed components. For total employment—U.S. Department of Labor, Bureau of Labor Statistics, Employment and Earnings (monthly), Table B–4.
3. Professional fees, other (legal, auditing, consulting, etc.).	.58	DRI–MM	Percentage change in hourly earnings index for production or nonsupervisory workers on private nonagricultural payrolls, total private. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 18.
4. Food	3.59	DRI–MM	A. Percentage change in food and beverages component of Consumer Price Index, All Urban (relative importance, 1.81). Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 23.
		DRI–MM	B. Percentage change in processed foods and feeds component of Producer Price Index (relative importance, 1.78). Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 27.
5. Fuel and other utilities	3.41	DRI–MM	A. Percentage change in implicit price deflator—consumption of fuel oil and coal (derived from fuel oil component of Consumer Price Index) (relative importance 1.62). Source: U.S. Department of Commerce, Bureau of Economic Analysis, Survey of Current Business (monthly), Table 7.11.
			B. Percentage change in implicit price deflator—consumption of electricity (derived from electricity component of Consumer Price Index) (relative importance, DRI–MM .79). Source: U.S. Department of Commerce, Bureau of Economic Analysis. Unpublished data provided to Data Resources, Inc. by the Bureau of Economic Analysis. Historical time series data are available from the Health Care Financing Administration or the Bureau of Economic Analysis.
		DRI–MM	C. Percentage change in implicit price deflator for natural gas, derived from utility (piped) gas component of Consumer Price Index (relative importance, .66). Source: Same as electricity above.
		DRI–CFS	D. Percentage change in water and sewerage maintenance component of Consumer Price Index (relative importance, .34). Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 23.
6. Drugs	2.66	DRI–CFS	Percentage change in pharmaceutical preparations, ethical component of Producer Price Index. Source: U.S. Department of Labor, Bureau of Labor Statistics, Producer Prices and Price Indexes (monthly), Table 6.
7. Chemicals and cleaning products	2.23	DRI–MM	Percentage change in chemicals and allied products components of Producer Price Index. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 27.
8. Surgical and medical instruments and supplies.	2.12	DRI–CFS	Percentage change in special industry machinery and equipment component of Producer Price Index. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 27.
9. Rubber and miscellaneous plastics	1.84	DRI–MM	Percentage change in rubber and plastic products component of Producer Price Index. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 27.
10. Business and travel and motor freight	1.87	DRI–CFS	Percentage change in transportation component of Consumer Price Index, All Urban. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 23.
11. Apparel and textiles	1.51	DRI–MM	Pecentage change in textile products and apparel component of Producer Price Index. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 27.
12. Business services	5.03	DRI–MM	Percentage change in services component of Consumer Price Index, All Urban. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 23.
13. All other miscellaneous expenses [4]	9.18	DRI–MM	Percentage change in Consumer Price Index for all items, All Urban. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 23.
Total	100.00		

[1] Cost not within the scope of the limits (i.e. capital, medical education, malpractice insurance, and medical professional fees) were excluded in deriving the market basket index.

[2] A Laspeyres price index was constructed using 1977 base value weights and the price variables indicated in the table. Base value weights (cost shares) were derived from special studies by the Health Care Financing Administration using primarily data from the American Hospital Association and the Interindustry Economics Division of the Bureau of Economic Analysis, U.S. Department of Commerce. In 1977 each price variable has an index value of 100.00. The "relative importance" changes over time in accordance with price changes for each price variable. Cost categories with relatively higher price increases get higher relative importance values and vice versa. These relative importance values are subject to marginal change. For an explanation of the methodology used, see Freeland, Mark S., Anderson, Gerald, and Schendler, Carol Ellen, "National Hospital Input Price Index," Health Care Financing Review, Summer 1979, pp. 37–61.

[3] DRI–CFS = Data Resources, Inc., Cost Forecasting Service, 1750 K Street, NW., Washington, DC. 20006 (Forecast 822). DRI–MM = Data Resources, Inc., Macro Model, 29 Hartwell Avenue, Lexington, Massachusetts 02173 (Trendlong 0582).

[4] This is a residual category of costs not included in the 12 specific categories above. It consists primarily of miscellaneous and unallocated items.

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Appendix II

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
01-0001	1.0346	* 01-0057	.9298	01-0117	.9857	03-0003	.9587	03-0067	.9547
01-0004	.9522	* 01-0058	.9889	01-0118	.9849	* 03-0004	1.0078	03-0068	.9376
01-0005	1.0141	01-0059	.9242	01-0119	1.0380	03-0005	1.0294	03-0069	1.0563
01-0006	1.0218	01-0060	.9743	01-0120	.9325	03-0006	1.1539	* 03-0070	.8310
01-0007	.9402	01-0061	.9417	01-0121	.9433	03-0007	1.0036	03-0080	1.0825
01-0008	.9685	01-0062	.9211	01-0122	.9212	03-0008	1.0372	04-0001	.9155
01-0009	.9093	01-0064	1.1458	01-0123	.9617	03-0009	1.1357	04-0002	.9540
01-0010	.9061	01-0065	1.0035	01-0124	.9507	03-0010	1.1192	04-0003	.9521
01-0011	1.0243	01-0066	.8925	01-0125	.9360	03-0011	.9685	04-0004	1.1255
01-0012	.9699	01-0067	.9277	01-0126	.9267	03-0012	1.0005	04-0005	1.0219
01-0013	.9236	01-0068	1.0259	01-0127	.9825	03-0013	1.0775	04-0006	1.0051
01-0014	1.0025	01-0069	.9918	01-0128	.8697	03-0014	1.0904	04-0007	1.0803
01-0015	1.0532	01-0070	.9196	01-0129	.9270	03-0016	.9870	04-0008	.9697
01-0016	1.0175	01-0071	.9708	01-0130	1.0073	03-0017	1.0012	04-0009	.9019
01-0017	.9842	01-0072	1.0301	01-0131	.8299	03-0018	1.0812	04-0010	1.0091
01-0018	.5499	01-0073	.9655	01-0133	.8382	03-0019	1.0037	04-0011	.9129
01-0019	.9469	01-0074	.8080	01-0134	.9559	03-0020	1.0054	04-0013	.9524
01-0020	.8562	* 01-0075	1.0139	* 01-0136	.8252	03-0022	1.1612	04-0014	.9027
01-0021	.9372	01-0078	1.0236	01-0137	1.1494	03-0023	1.0266	04-0015	.9342
01-0022	.9435	01-0079	.9910	01-0138	.9878	03-0024	1.1894	04-0016	1.1506
01-0023	1.0314	01-0080	.8942	01-0139	1.2040	03-0025	1.0036	04-0017	1.0754
01-0024	1.0290	01-0081	1.0744	01-0140	1.1453	* 03-0026	.9278	04-0018	.9656
01-0025	.9737	01-0082	.9260	* 01-0141	1.4744	03-0027	.9936	04-0019	.9237
01-0026	.9773	01-0083	.9600	* 01-0142	.8088	03-0030	1.0339	04-0020	1.0134
01-0027	.9004	01-0084	1.0412	01-0143	.9541	03-0033	.9708	04-0021	.9503
01-0028	.9543	01-0085	1.0219	01-0144	.9714	03-0034	.9624	04-0022	.9949
01-0029	1.0491	01-0086	.9238	01-0145	.9471	03-0035	1.0336	04-0024	.9565
01-0030	.9012	01-0087	1.0473	01-0146	.8783	03-0036	.9010	04-0025	.8794
01-0031	.9596	01-0089	.9490	* 01-0147	.9338	03-0037	1.2264	04-0026	1.0268
* 01-0032	.6430	01-0090	1.0407	01-0148	.9483	03-0038	1.0944	04-0027	.9984
01-0033	1.3904	01-0091	.9703	01-0149	1.0635	* 03-0039	.8674	04-0028	.9712
01-0034	.8585	01-0092	1.0646	02-0001	1.0596	03-0040	.9889	04-0029	1.0044
01-0035	.9462	01-0094	.8869	* 02-0002	1.0677	* 03-0041	.9423	04-0030	.8833
01-0036	.8878	01-0095	1.0057	* 02-0004	.9879	03-0043	1.0477	04-0031	.9241
01-0038	.8633	* 01-0096	.9921	* 02-0005	1.1574	03-0044	.9793	04-0032	.9811
01-0039	1.1107	01-0097	.9566	* 02-0006	1.0106	* 03-0046	.9736	04-0033	.8538
01-0040	1.0338	01-0098	.9647	* 02-0007	.9195	* 03-0047	.9275	04-0034	1.0014
* 01-0041	.9851	01-0099	.9291	02-0008	.9155	03-0048	1.0380	04-0035	.9354
01-0043	.9181	01-0100	.9939	* 02-0009	.6116	03-0049	.9682	04-0036	.9895
01-0044	.9219	01-0101	.9457	* 02-0010	.9337	03-0051	.8984	04-0037	1.0776
01-0045	.9578	* 01-0102	.9197	* 02-0011	.9868	03-0054	.9112	04-0039	.9740
01-0046	.9749	01-0103	1.1033	02-0012	1.0292	03-0055	1.0231	04-0040	.9417
01-0047	.8668	01-0104	1.1028	* 02-0013	.9987	03-0057	1.0253	04-0041	1.0417
01-0049	.9286	01-0108	.9305	* 02-0014	.9533	03-0059	.8656	04-0042	1.0471
01-0050	.9248	01-0109	1.0493	* 02-0016	.8522	03-0060	1.0495	04-0043	.9247
* 01-0051	.9308	* 01-0110	.9864	02-0017	.9797	03-0061	1.1273	04-0044	.8993
01-0052	.9170	01-0111	.8592	* 02-0024	.7816	03-0062	.9490	04-0045	.9177
01-0053	1.0064	01-0112	.9511	* 02-0025	1.0737	03-0063	1.0300	04-0047	.9448
01-0054	.9698	01-0113	1.0677	* 02-0026	.8396	03-0064	1.1777	04-0048	.9465
01-0055	.9486	01-0114	1.0036	03-0001	1.0707	03-0065	1.0979	04-0050	.9574
01-0056	1.0870	01-0115	1.0042	03-0002	1.1963	* 03-0066	1.1014	04-0051	.9992

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
04-0053	.9182
04-0054	.8865
04-0055	1.0773
04-0057	.9274
04-0058	.9376
04-0060	.9102
04-0062	1.0669
04-0063	1.0247
04-0064	.9187
04-0066	.8858
04-0067	.8828
04-0068	.9861
04-0069	.9381
04-0070	.9207
04-0071	.9965
04-0072	.9135
04-0074	.9937
04-0075	1.0068
04-0076	.9882
04-0077	.9449
04-0078	1.0009
04-0080	.9141
04-0081	.9006
04-0082	.9679
04-0084	.9260
04-0085	.9208
04-0087	.9378
04-0088	1.0246
04-0090	.9700
04-0091	.9381
04-0093	.8725
04-0095	.8906
04-0098	1.0039
04-0100	1.0063
04-0105	.9866
04-0106	1.0018
04-0107	.9539
04-0108	.9011
04-0109	.9335
* 04-0113	.9675
04-0114	1.1595
04-0115	.9674
04-0116	1.0442
* 04-0117	1.1311
04-0118	.9791
04-0119	.9696
* 04-0121	.9364
04-0122	.9734
04-0123	.9169
04-0124	.9507
04-0125	.8534

PROVIDER NUMBER	CASE MIX INDEX
* 04-0126	1.0822
* 05-0001	1.0503
05-0002	1.0993
05-0004	1.0329
05-0005	1.0062
05-0006	1.0674
05-0007	1.0983
05-0008	1.1221
05-0009	1.0936
* 05-0010	1.1899
05-0011	.9417
05-0013	1.3489
05-0014	1.0040
05-0015	1.0420
05-0016	1.0660
05-0017	1.1221
05-0018	.9417
* 05-0019	.9100
* 05-0020	.9896
05-0021	.9988
05-0022	1.1115
05-0024	1.0492
05-0025	1.2531
05-0026	1.0502
* 05-0027	1.1839
05-0028	1.1100
05-0029	1.0655
05-0030	1.0080
* 05-0031	1.1119
05-0032	1.0158
05-0033	1.0999
05-0034	1.0343
05-0036	1.0895
05-0038	1.1609
05-0039	1.2146
05-0040	1.0864
05-0041	1.0082
05-0042	.9762
05-0043	1.1811
05-0045	1.0963
05-0046	1.0975
05-0047	1.3103
05-0049	1.0085
05-0051	.9448
* 05-0052	.9288
05-0053	1.1069
05-0054	1.1029
05-0055	1.1206
05-0056	1.0334
05-0057	1.1089
05-0058	1.0150

PROVIDER NUMBER	CASE MIX INDEX
05-0060	1.0632
05-0061	.9693
05-0063	1.0653
05-0065	1.0641
05-0066	1.0253
05-0067	1.1003
05-0068	.9791
05-0069	1.1052
05-0070	1.0491
05-0071	1.0868
05-0072	1.1121
05-0073	1.0736
05-0074	.9698
05-0075	1.1450
05-0076	1.1194
05-0077	1.1434
05-0078	1.0870
05-0079	1.0818
05-0080	1.0429
05-0081	1.1381
05-0082	1.0831
05-0084	1.1915
05-0085	1.0346
05-0086	1.0020
05-0087	1.1757
05-0088	1.0077
05-0089	1.0915
05-0090	1.0842
05-0091	.9820
05-0092	1.0106
05-0093	1.1654
05-0095	1.0640
05-0096	.9921
05-0097	1.0683
05-0098	1.0327
05-0099	1.1207
05-0100	1.2639
05-0101	1.0427
05-0102	1.0773
05-0103	1.1932
05-0104	1.1061
05-0107	1.0416
05-0108	1.0849
05-0109	1.3265
05-0110	.9716
05-0111	1.0206
05-0112	1.1131
05-0113	1.0196
05-0114	1.0725
05-0115	1.1499
05-0116	1.1537

PROVIDER NUMBER	CASE MIX INDEX
05-0117	1.0379
05-0118	1.0281
* 05-0119	.8079
05-0121	1.0591
05-0122	1.1661
* 05-0123	1.1938
05-0124	1.0841
05-0125	1.0672
05-0126	1.0201
05-0127	1.1309
05-0128	1.0881
05-0129	1.0604
* 05-0130	2.9394
05-0131	1.0529
05-0132	1.0510
05-0133	.9907
05-0134	1.0181
05-0135	.9567
05-0136	1.0869
05-0137	1.0601
05-0138	1.1444
05-0139	1.1122
05-0140	1.1171
05-0141	1.0420
05-0143	.9417
05-0144	1.1534
05-0145	1.1178
05-0146	1.1398
05-0147	.9608
05-0148	.9923
05-0149	1.0466
05-0150	1.1124
05-0151	1.0114
05-0152	1.0445
05-0153	1.1293
05-0154	1.0189
05-0155	1.0039
05-0156	1.0306
05-0158	1.1568
05-0159	1.0354
05-0161	.9552
* 05-0162	1.0056
05-0164	1.0542
05-0166	1.2751
05-0167	1.0898
05-0168	1.1207
05-0169	1.0666
05-0170	1.0984
05-0172	1.1134
05-0173	1.0071
05-0174	1.1232

PROVIDER NUMBER	CASE MIX INDEX
05-0175	1.0623
05-0177	1.1082
05-0179	1.1081
05-0180	1.0887
05-0181	.9678
05-0182	1.0978
05-0183	1.0228
* 05-0185	.9942
05-0186	1.0888
05-0187	.9315
05-0188	1.1122
* 05-0189	1.0781
* 05-0190	1.1129
05-0191	1.1058
05-0192	1.0373
05-0193	1.0505
05-0194	1.0455
05-0195	1.0529
05-0196	1.1696
05-0197	1.1567
05-0199	1.1250
05-0200	1.0583
05-0201	1.0606
05-0202	1.0010
05-0204	1.1469
05-0205	1.0508
05-0207	1.0901
05-0208	1.0029
* 05-0209	.7240
05-0210	1.0689
05-0211	1.0108
05-0212	1.0102
05-0213	1.1067
05-0214	1.0585
05-0215	1.0984
05-0216	.9545
05-0217	1.0049
05-0219	1.0504
05-0220	.9536
05-0221	1.0872
05-0222	1.0323
05-0224	1.1189
05-0225	1.0356
05-0226	1.1054
05-0228	1.0844
05-0229	1.0069
05-0230	1.0242
05-0231	1.1042
05-0232	1.1021
05-0233	1.0767
05-0234	1.0281

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
05-0235	1.0990
05-0236	1.0035
* 05-0237	.8983
05-0238	1.0619
05-0239	1.1002
05-0240	1.0443
05-0241	1.0926
05-0242	1.1602
05-0243	1.0764
05-0245	1.1057
05-0248	1.0004
05-0251	1.0077
05-0253	.9967
05-0254	1.0286
05-0255	.9390
05-0256	1.3208
05-0257	1.0354
05-0258	.9811
* 05-0260	1.1385
05-0261	1.0816
05-0262	1.1190
05-0263	1.0747
05-0264	1.1383
05-0266	1.0317
05-0267	1.1833
05-0268	1.0756
05-0269	1.0368
05-0270	1.1206
05-0272	1.0457
* 05-0273	.8579
* 05-0274	.9182
* 05-0275	1.0802
05-0276	.9856
05-0277	.9664
05-0278	1.0413
05-0279	1.0087
05-0280	1.0663
05-0281	1.1099
05-0282	1.0941
05-0283	1.1172
05-0284	1.1264
05-0285	1.0264
05-0286	.9594
05-0289	1.0865
05-0290	1.0323
05-0291	1.1492
05-0292	1.1608
* 05-0293	.9075
05-0295	1.0768
05-0296	1.0099
05-0298	.9972
05-0299	1.0495
05-0300	1.0497
05-0301	1.0996
05-0302	1.1155
* 05-0303	1.0063
05-0305	1.1071
05-0307	1.0662
05-0308	1.1407
05-0309	1.0243
05-0310	1.0532
05-0312	1.1577
05-0313	.9583
05-0314	.9110
05-0315	1.0969
05-0317	1.0906
05-0318	.9192
05-0319	1.0532
05-0320	1.0525
* 05-0322	1.0555
05-0323	1.0246
05-0324	1.1321
05-0325	1.0465
05-0326	1.0336
05-0327	1.1433
05-0328	.9962
05-0329	.9628
05-0331	1.0025
* 05-0333	1.0619
05-0334	1.0913
05-0335	.9486
05-0336	1.1598
05-0337	1.0398
05-0342	.9806
05-0343	.9323
05-0345	.9918
05-0348	1.1359
05-0349	.9819
05-0350	1.1158
05-0351	1.1363
05-0352	1.0326
05-0353	1.1598
* 05-0355	.9079
05-0357	1.2248
05-0359	1.1183
05-0360	1.0917
* 05-0361	1.0095
05-0362	1.0654
05-0363	1.0364
05-0366	1.0481
05-0367	1.0743
05-0368	.9390
05-0369	1.1126
05-0371	1.0813
05-0372	1.0812
05-0373	.9721
05-0375	1.0313
05-0376	1.1360
05-0377	1.0048
05-0378	1.0130
05-0379	.9332
05-0380	1.3454
05-0381	.8845
05-0382	1.0721
05-0383	1.2176
05-0385	1.0487
05-0387	.8755
05-0388	.9550
05-0390	1.1106
05-0391	.9881
* 05-0392	1.2100
05-0393	1.1586
05-0394	1.0484
05-0395	.9514
05-0396	1.2059
* 05-0397	1.0350
* 05-0398	1.1045
* 05-0399	.8857
05-0400	1.0556
05-0401	1.0851
05-0403	1.0154
05-0404	1.0112
05-0405	.9514
* 05-0406	.9480
05-0407	1.0548
05-0410	.9682
05-0411	1.0974
05-0413	1.1307
05-0414	1.1125
05-0415	.8636
* 05-0416	.9444
05-0417	.9889
05-0418	1.0842
05-0419	1.0072
05-0420	1.0749
05-0421	1.0771
05-0423	.9665
05-0424	1.1409
05-0425	1.0968
05-0426	1.0498
* 05-0427	.9760
* 05-0428	.9858
* 05-0429	.9097
* 05-0430	.8826
05-0431	.9537
05-0432	1.1060
* 05-0433	.9911
05-0434	1.0618
05-0435	1.0200
05-0436	1.0036
05-0438	1.1155
05-0440	1.0777
05-0441	1.3993
05-0442	1.0595
05-0443	.9261
05-0444	1.0365
* 05-0446	.9326
05-0447	1.0949
05-0448	1.0127
05-0449	.9370
* 05-0450	1.0573
* 05-0451	1.0101
05-0454	1.3804
05-0455	1.1442
05-0456	1.0671
05-0457	1.1651
05-0458	1.0153
05-0459	1.0865
* 05-0463	1.0579
05-0464	1.0729
05-0467	1.0901
05-0468	1.0478
05-0469	1.0532
05-0470	1.1120
05-0471	1.0847
05-0473	1.2459
05-0476	.9948
05-0477	.9940
05-0478	1.0485
05-0481	1.0273
* 05-0482	.9875
05-0483	.9858
05-0485	1.0913
05-0486	1.0504
* 05-0487	.9403
05-0488	1.1055
* 05-0489	1.0789
05-0491	1.0579
05-0492	1.0083
* 05-0494	1.0395
05-0496	1.1950
* 05-0497	.9367
05-0498	1.0932
* 05-0500	.9199
05-0502	1.3915
05-0503	1.0708
05-0506	1.0875
05-0510	1.0649
05-0512	1.1111
* 05-0513	.9664
05-0515	1.1002
05-0516	1.0732
05-0517	1.0420
* 05-0521	1.1116
05-0522	1.0235
05-0523	.9603
* 05-0525	1.0766
05-0526	1.0355
05-0527	1.0513
05-0528	1.0920
* 05-0530	.9640
05-0531	.9041
05-0534	.9184
05-0535	1.0518
05-0537	1.0849
05-0539	1.0013
05-0540	1.0809
05-0541	1.3908
05-0542	.9231
05-0543	1.0315
05-0544	1.0482
05-0549	1.0729
05-0550	1.0344
05-0551	1.0817
* 05-0552	.9953
* 05-0554	1.1790
05-0557	1.0698
05-0559	1.0710
05-0560	1.0413
05-0561	1.1213
05-0562	.9637
05-0564	1.0121
05-0565	1.0305
* 05-0566	1.0317
05-0567	1.0370
05-0568	1.1065
05-0569	1.0741
05-0570	1.1065
05-0571	1.0560
05-0573	1.1066
05-0575	.9224
05-0576	.9640
05-0577	1.0591
05-0578	.9592
05-0579	.9911

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
05-0580	.9896
05-0581	1.0506
05-0583	1.2181
05-0584	1.0891
05-0585	1.0888
05-0586	.9753
05-0587	.9757
05-0588	1.0868
05-0589	1.0767
05-0590	1.0868
05-0591	1.0125
05-0592	1.0511
05-0593	.9632
05-0594	1.1075
05-0595	1.0793
05-0597	1.0394
05-0598	.9729
05-0599	1.2935
05-0601	1.0079
05-0602	1.1496
05-0603	1.0547
05-0604	1.1203
* 05-0605	1.0200
05-0606	1.0900
05-0607	.9800
05-0608	1.0778
05-0609	1.1174
* 05-0611	.8966
* 05-0613	.9605
05-0615	1.0997
05-0616	1.0582
* 05-0617	.8250
05-0618	.9684
05-0619	1.1363
05-0622	1.0110
05-0623	.9256
05-0624	1.0245
05-0625	1.2079
05-0626	.8056
05-0627	.8112
05-0628	.8028
* 05-0629	.8568
05-0630	1.1375
* 05-0631	.8044
05-0632	1.0244
05-0633	1.1113
05-0635	1.0942
05-0636	1.0210
05-0637	1.0329
* 05-0638	.8864
* 05-0639	.9900
* 05-0640	1.0892
05-0641	1.0138
* 05-0642	.8044
05-0644	1.0416
* 05-0645	1.1279
05-0646	.8064
06-0001	.9486
06-0003	1.0336
06-0004	.9989
06-0005	1.0168
06-0006	.9911
06-0007	1.0078
06-0008	.8868
06-0009	1.0184
06-0010	.9463
06-0011	.9858
06-0012	.9686
06-0013	1.0154
06-0014	1.0369
06-0015	1.0337
06-0016	.9527
06-0017	.9992
06-0018	.8635
06-0019	1.0706
06-0020	.9613
06-0022	1.0014
06-0023	.9647
06-0024	1.3115
06-0025	.9562
06-0026	1.0401
06-0027	1.0632
06-0028	1.1101
* 06-0029	.9215
06-0030	1.0857
06-0031	1.0368
06-0032	.9919
06-0033	.9405
06-0034	.9662
06-0035	1.0208
06-0036	.9925
06-0037	.9577
* 06-0038	.9725
06-0039	.9189
* 06-0041	.9562
* 06-0042	.9777
* 06-0043	.8455
06-0044	.9304
06-0045	.9455
* 06-0046	.9147
* 06-0047	.9334
* 06-0049	.8723
06-0050	.9255
06-0051	.9283
* 06-0052	.9333
* 06-0053	.9738
06-0054	.9907
* 06-0055	.8626
* 06-0056	.9618
* 06-0057	.7797
* 06-0058	1.0251
06-0059	.9088
06-0060	1.0282
06-0061	1.0600
* 06-0062	1.0315
* 06-0063	1.1251
06-0064	1.0099
06-0065	.9968
06-0066	.9139
06-0067	.8997
* 06-0068	.9758
* 06-0069	.8450
* 06-0070	1.0144
06-0071	1.0304
* 06-0072	.9190
* 06-0073	.9781
* 06-0074	.8667
06-0075	1.0633
06-0076	.9018
* 06-0077	.8362
* 06-0081	1.2428
* 06-0083	1.0869
* 06-0085	.9047
06-0087	1.0131
* 06-0088	.9658
* 06-0090	.9840
* 06-0092	.8044
* 06-0093	.7680
07-0001	1.1716
07-0002	1.1743
07-0003	1.0857
07-0004	1.1239
07-0005	1.1297
07-0006	1.0879
07-0007	1.1239
07-0008	1.0011
07-0009	1.1279
07-0010	1.1104
07-0011	1.0433
07-0012	1.1111
07-0013	1.0735
07-0014	.9824
07-0015	1.0063
07-0016	1.1284
07-0017	1.0225
07-0018	1.0242
07-0019	1.0689
07-0020	1.1472
07-0021	1.0464
07-0022	1.2445
07-0023	.9838
07-0024	1.0484
07-0025	1.1823
07-0026	1.0465
07-0027	1.0410
07-0028	1.1679
07-0029	.9985
07-0030	1.0636
07-0031	1.0970
07-0033	1.1020
07-0034	1.0354
07-0035	1.1284
07-0036	1.1019
* 07-0037	.6499
* 07-0038	1.1421
08-0001	1.1615
08-0002	1.0376
08-0003	1.1027
08-0004	1.1287
08-0005	1.0851
08-0006	1.0687
08-0007	1.0391
09-0001	1.1799
09-0002	1.0920
09-0003	1.1162
09-0004	1.2551
09-0005	1.1097
09-0006	1.0508
09-0007	.9552
09-0008	1.0531
09-0009	.9489
* 09-0010	1.0326
09-0011	1.1699
* 09-0014	1.8156
10-0001	1.1047
10-0002	1.0492
10-0004	.9044
10-0005	1.0036
10-0006	.9772
10-0007	1.1535
10-0008	1.0891
10-0009	1.0607
10-0010	1.0908
10-0011	.8645
10-0012	.9770
10-0013	.9862
10-0014	1.0416
10-0015	1.0358
10-0016	.9753
10-0017	1.0839
10-0018	1.0602
10-0019	1.0808
10-0020	1.0086
10-0021	.9695
10-0022	1.2158
10-0023	1.0085
10-0024	.9385
10-0025	1.1551
10-0026	1.0115
* 10-0027	.9664
10-0028	.9793
10-0029	.9804
10-0030	.9513
* 10-0031	.8560
10-0032	1.1290
10-0033	1.0373
10-0034	1.1021
10-0035	1.0338
10-0036	.9892
10-0038	1.0800
10-0039	1.0915
10-0040	1.0897
10-0042	.9966
10-0043	1.0739
10-0044	1.0761
10-0045	1.0173
10-0046	1.0564
10-0047	1.0309
10-0048	.8510
10-0049	1.0703
10-0050	.9590
10-0051	.9069
10-0052	.9956
10-0053	1.0136
10-0054	.9737
10-0055	.9530
10-0056	.9059
10-0057	.9928
10-0059	1.0920
10-0060	1.1890
10-0061	1.0229
10-0062	1.1909
10-0063	1.0585
10-0065	.9663
10-0067	1.0919

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
10-0068	1.0194
10-0069	.9774
10-0070	1.1124
10-0071	.9729
10-0072	1.0017
10-0073	1.0496
10-0074	.9607
10-0075	1.0141
10-0076	.9899
10-0077	1.0284
10-0078	.8852
10-0079	.9767
10-0080	1.0332
10-0081	.8676
10-0082	1.0544
10-0083	1.0132
10-0084	.9237
10-0085	.9532
10-0086	1.0474
10-0087	1.1213
10-0088	1.0924
10-0089	1.0245
10-0090	.9862
10-0092	1.0535
10-0093	1.0125
10-0098	.9748
10-0099	1.0144
10-0100	1.0104
10-0102	.9059
10-0103	.9589
10-0105	1.0565
10-0106	.8798
10-0107	.9630
10-0108	.8705
10-0109	.9326
10-0110	.9612
10-0112	.8807
10-0113	1.2977
10-0114	1.0040
10-0115	.9320
10-0117	.9864
10-0118	.9901
10-0120	.9028
10-0121	.8579
10-0122	.8447
10-0124	.8598
10-0125	.9763
10-0126	1.0336
10-0127	1.0593
10-0128	1.4590
10-0129	1.0117
10-0130	1.0001
10-0131	1.0055
10-0132	1.0454
10-0133	.9300
10-0134	.8705
10-0135	1.0648
10-0137	.9518
10-0138	.8359
10-0139	1.0114
10-0140	.8846
10-0142	.9154
10-0143	.9519
10-0144	.9881
10-0145	.9887
10-0146	.9399
10-0147	.9254
10-0149	1.0663
10-0150	.9093
10-0151	1.0727
10-0152	.8621
10-0153	.8631
10-0154	1.0564
10-0156	.8414
10-0157	1.0564
10-0159	.9243
10-0160	.9319
10-0161	1.0465
10-0162	1.0927
10-0164	.9364
10-0165	.9103
10-0166	1.0113
10-0167	.9782
10-0168	1.0642
10-0169	1.0115
10-0170	1.0257
10-0172	1.0061
10-0173	1.0292
10-0174	.9358
10-0175	.9331
10-0176	1.0514
10-0177	.8559
10-0178	1.0960
10-0180	1.1515
10-0181	.8695
10-0182	.8125
10-0183	.9125
10-0184	1.1385
10-0185	.9178
10-0186	1.0584
10-0187	1.0043
10-0188	.9792
10-0191	.9879
10-0193	.8522
10-0194	.9503
10-0195	1.1248
10-0196	1.0076
10-0197	1.0208
10-0199	1.0668
10-0200	1.0819
10-0201	1.0796
10-0203	1.0656
10-0204	1.1849
10-0206	1.0490
10-0207	1.0218
10-0208	1.0036
10-0209	1.0484
10-0210	1.0439
10-0211	.9495
10-0212	.9903
10-0213	1.0488
10-0214	1.0116
10-0217	.9847
10-0218	.9773
10-0219	1.0096
10-0220	1.1056
10-0221	1.1431
10-0222	.9371
10-0223	1.0456
10-0224	.9976
10-0225	1.0160
10-0226	.9975
10-0227	1.0342
10-0228	.9764
10-0229	1.0459
10-0230	.9740
10-0231	1.2444
10-0232	.9504
10-0234	1.0258
10-0235	1.0534
10-0236	.9715
10-0237	1.1720
10-0238	.9783
10-0239	1.0610
10-0240	.5652
10-0241	.8718
10-0242	.9858
10-0243	1.0598
10-0244	1.0611
10-0245	1.1092
10-0246	1.0820
10-0247	.7752
10-0248	1.0358
10-0249	.9889
10-0250	3.6042
10-0251	.8703
10-0252	.9354
10-0253	1.1150
10-0254	.9234
11-0001	.9974
11-0002	.9603
11-0003	1.0356
11-0004	1.0166
11-0005	1.0828
11-0006	.9942
11-0007	1.0728
11-0008	1.0097
11-0009	.9305
11-0010	1.3396
11-0011	.9779
11-0013	.9867
11-0014	.9274
11-0015	.9556
11-0016	1.0322
11-0017	.9245
11-0018	.9741
11-0020	.9787
11-0023	.9112
11-0024	1.0189
11-0025	1.0298
11-0026	.9608
11-0027	.9425
11-0028	1.0789
11-0029	1.0317
11-0030	1.0133
11-0031	1.0443
11-0032	.9653
11-0033	.9734
11-0034	1.1193
11-0035	1.1004
11-0036	1.2330
11-0037	.9279
11-0038	1.0419
11-0039	.9886
11-0040	.9129
11-0041	.9626
11-0042	.9197
11-0043	1.1070
11-0044	1.0077
11-0045	.9523
11-0046	.9768
11-0047	.9776
11-0048	.9674
11-0049	.8667
11-0050	.9495
11-0051	.9488
11-0052	.8921
11-0054	1.0374
11-0055	.9760
11-0056	.9613
11-0059	.9152
11-0061	.9567
11-0062	.9341
11-0063	1.0196
11-0064	1.1128
11-0065	1.0006
11-0066	1.1051
11-0067	.9780
11-0069	.9929
11-0070	.8163
11-0071	.8966
11-0072	.8774
11-0073	.8801
11-0074	1.0783
11-0075	.9760
11-0076	1.1072
11-0077	.8886
11-0078	1.0745
11-0079	1.0780
11-0080	.9646
11-0081	1.0469
11-0082	1.2181
11-0083	1.0803
11-0084	.8953
11-0085	.9776
11-0086	.9841
11-0087	.9420
11-0088	.9015
11-0089	.9504
11-0091	1.0840
11-0092	.9652
11-0093	.9048
11-0094	.8678
11-0095	1.0702
11-0096	.9533
11-0097	.8906
11-0098	.9393
11-0099	.9772
11-0100	1.0052
11-0101	.8561
11-0103	.8847
11-0104	.9867
11-0105	.9115
11-0107	1.1934
11-0108	.8876

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
11-0109	.9201
11-0111	.8982
11-0112	.9012
11-0113	.9404
11-0114	.9436
11-0115	1.0927
11-0117	.9441
11-0118	.9198
11-0120	.9108
11-0121	.9678
11-0122	1.0915
11-0123	.9020
11-0124	.9081
11-0125	.9372
11-0127	.8729
11-0128	1.0244
11-0129	1.1285
11-0130	.9361
* 11-0131	.9615
11-0132	.9293
* 11-0133	.9836
11-0134	.9126
11-0135	.9444
* 11-0136	.9974
* 11-0138	.9233
11-0140	.8931
11-0141	.8848
11-0142	.8584
11-0143	1.0037
11-0144	1.0140
11-0146	.8794
11-0149	.9230
11-0150	.9973
11-0151	.9630
11-0152	.9457
11-0153	.8718
11-0154	.9017
11-0155	.9775
* 11-0156	.9681
11-0157	.9934
11-0158	.9242
11-0161	1.1259
11-0163	1.0581
11-0164	1.0273
11-0165	1.1182
11-0166	1.0107
11-0168	1.0050
11-0169	.5467
11-0170	.8298
11-0171	1.0955
11-0172	1.0562
11-0174	.8951
11-0175	.9961
11-0176	1.0605
11-0177	1.0259
11-0178	.5975
11-0179	1.0417
11-0181	.9778
* 11-0182	.8004
11-0183	.9853
11-0184	1.0018
11-0185	.9627
11-0186	.9841
11-0187	.9616
11-0188	1.1231
11-0189	.9849
11-0190	.8936
11-0191	1.0542
11-0192	.9234
11-0193	.9105
* 11-0194	.9558
* 11-0195	.8262
12-0001	1.1367
12-0002	1.0492
* 12-0003	1.0252
12-0004	1.1078
12-0005	1.0425
12-0006	1.0608
12-0007	1.0932
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* 12-0009	.9019
12-0010	1.2119
12-0011	1.1266
* 12-0012	.8148
12-0014	1.0665
* 12-0015	1.0633
* 12-0016	1.0085
* 12-0018	.8701
12-0019	.9446
12-0020	.9410
* 12-0021	1.0250
12-0022	1.1569
13-0001	.9615
13-0002	1.0522
13-0003	1.0309
* 13-0004	1.0229
13-0005	.9657
13-0006	1.2226
13-0007	1.1458
* 13-0008	.9037
* 13-0009	.9540
13-0010	.9487
13-0011	.9601
* 13-0012	.9375
13-0013	1.0449
13-0014	1.0006
* 13-0015	.8410
13-0016	.9042
* 13-0017	.9005
13-0018	1.0848
13-0019	.9251
* 13-0021	.8728
13-0022	.9841
13-0024	.9846
13-0025	.9254
13-0026	1.0923
13-0027	.9251
13-0028	1.0288
13-0029	1.0520
* 13-0030	.8889
* 13-0031	1.0213
* 13-0032	.9663
13-0034	.8621
13-0035	.9429
13-0036	1.0112
13-0037	.8686
* 13-0038	.9465
* 13-0039	1.1068
* 13-0040	.9999
* 13-0041	.8855
13-0043	.9228
* 13-0044	.8043
13-0045	.9019
* 13-0048	.9579
13-0049	.9937
* 13-0050	.8047
13-0051	.9067
* 13-0052	1.1424
* 13-0053	.8322
* 13-0054	.9204
14-0001	1.0039
14-0002	1.0574
14-0003	.9334
14-0004	.9789
14-0005	.9378
14-0007	.9918
14-0008	1.0473
14-0009	.9777
14-0010	1.0711
14-0011	.9485
14-0012	.9215
14-0013	1.0478
14-0014	.9424
14-0015	.9921
14-0016	.9850
14-0017	.9717
14-0018	1.0391
14-0019	.9309
14-0023	.9864
14-0024	.9160
14-0025	.9830
14-0026	1.0404
14-0027	1.0635
14-0029	1.0945
14-0030	1.0567
14-0031	1.0035
14-0032	.9980
14-0033	1.0314
14-0034	.9423
14-0035	1.0228
14-0036	.9847
14-0037	.9679
14-0038	1.0595
14-0039	.9550
14-0040	.9878
14-0041	.9606
14-0042	.9861
14-0043	.9981
* 14-0044	.6015
14-0045	1.0422
14-0046	.9998
14-0047	1.0144
14-0048	1.0023
14-0049	1.0493
14-0051	1.0681
14-0052	.9304
14-0053	1.1042
14-0054	1.0588
14-0055	.9514
14-0058	.9914
14-0059	1.0068
14-0061	.9674
14-0062	1.0542
14-0063	1.0685
14-0064	.9939
14-0065	1.0439
14-0066	.9532
14-0067	1.0799
14-0068	.9847
14-0069	.9424
14-0070	.9680
14-0072	1.0163
14-0074	1.0428
14-0075	1.1262
14-0076	.9264
14-0077	.9775
14-0079	1.0462
14-0080	1.1713
14-0081	1.0420
14-0082	1.0284
14-0083	1.0440
14-0084	1.0572
14-0085	1.1334
14-0086	1.0521
14-0087	1.0551
14-0088	1.2194
14-0089	.9655
14-0090	1.0108
14-0091	1.0918
14-0093	.9817
14-0094	1.0595
14-0095	1.0745
14-0097	1.0087
14-0098	1.0232
14-0099	.9636
14-0100	1.0602
14-0101	.9781
14-0102	.9658
14-0103	1.0020
14-0104	.8795
14-0105	1.0940
14-0107	1.0014
14-0108	.9931
14-0109	.9006
14-0110	1.0153
14-0111	1.0206
14-0112	.9768
14-0113	1.0611
14-0114	1.0488
14-0115	.9348
14-0116	1.0787
14-0117	1.0691
14-0118	1.1404
14-0119	1.2914
14-0120	1.0104
14-0121	.9516
14-0122	1.0202
14-0123	.9989
14-0124	.8993
14-0125	.9835
14-0126	1.0672
14-0127	1.0419
14-0128	1.0305
14-0129	.9879
14-0130	1.0323

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
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14-0134	.9[illegible]
14-0135	1.0[illegible]
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14-0139	.9[illegible]
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14-0141	1.0[illegible]
14-0142	1.0[illegible]
14-0143	.9[illegible]
14-0144	1.0[illegible]
14-0145	1.0[illegible]
14-0146	.9[illegible]
14-0147	.9941
14-0148	1.0[illegible]
14-0150	1.1[illegible]
* 14-0151	.9[illegible]
14-0152	1.0[illegible]
14-0153	.9944
14-0154	1.0[illegible]
14-0155	.9[illegible]
14-0156	1.0[illegible]
14-0157	1.0[illegible]
14-0158	1.0[illegible]
14-0159	.9[illegible]
14-0160	1.0[illegible]
14-0161	.9[illegible]
14-0162	1.0[illegible]
14-0163	1.0[illegible]
14-0164	1.0[illegible]
14-0165	.8[illegible]
14-0166	1.0[illegible]
14-0167	.9[illegible]
14-0168	1.0[illegible]
14-0169	1.0[illegible]
14-0170	1.0[illegible]
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14-0172	1.0[illegible]
14-0173	.9[illegible]
14-0174	1.0[illegible]
14-0176	.9[illegible]
14-0177	1.0[illegible]
14-0178	.9[illegible]
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14-0181	1.0[illegible]
14-0182	1.0[illegible]
14-0184	.9[illegible]
14-0185	1.0[illegible]
14-0186	1.1[illegible]
14-0187	.9[illegible]
14-0188	1.0[illegible]
14-0189	1.0[illegible]
14-0190	.9[illegible]
14-0191	1.0[illegible]
14-0192	.9877
14-0193	.9[illegible]
14-0194	1.0[illegible]
14-0195	.9[illegible]
14-0196	1.0[illegible]
14-0197	1.0[illegible]
14-0198	.9[illegible]
14-0199	1.0[illegible]
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14-0202	.9941
14-0203	1.1[illegible]
14-0204	1.0[illegible]
14-0205	.9[illegible]
14-0206	.9[illegible]
14-0207	1.0[illegible]
14-0208	1.0[illegible]
14-0209	1.0[illegible]
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14-0215	.9742
* 14-0216	.9[illegible]
14-0217	1.0[illegible]
14-0219	.9[illegible]
14-0220	.9[illegible]
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14-0224	1.0714
14-0226	.9811
14-0228	1.0846
14-0229	1.0[illegible]
14-0230	.9467
14-0231	1.0698
14-0232	1.0187
14-0233	1.0[illegible]
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14-0235	.9502
* 14-0236	.8892
14-0239	1.0843
14-0240	1.0352
14-0241	.9610
14-0242	1.0378
14-0243	1.0841
14-0245	.9887
14-0246	.9898
14-0247	.9362
14-0248	.9415
15-0001	.9787
15-0002	.9822
15-0003	1.0309
15-0004	1.0340
15-0005	1.0277
15-0006	1.0284
15-0007	1.0149
15-0008	1.1535
15-0009	1.0020
15-0010	1.0072
15-0011	1.0521
15-0012	1.0987
15-0013	.8986
15-0014	1.0034
15-0015	1.0303
15-0017	1.2015
15-0018	1.0592
15-0019	.9399
15-0020	.9974
15-0021	1.1841
15-0022	.9558
15-0023	1.0127
15-0024	1.0772
15-0025	1.0451
15-0026	.9633
15-0027	.9711
15-0029	1.1171
15-0030	.9697
15-0031	.9029
15-0032	1.3328
15-0033	1.0784
15-0034	1.0002
15-0035	1.0292
15-0036	.9461
15-0037	1.0041
15-0038	.9773
15-0039	.9895
15-0042	1.0172
15-0043	.9707
15-0044	.9993
15-0045	1.0052
15-0046	1.0729
15-0047	1.0006
15-0048	1.0396
15-0049	.9094
15-0050	.9644
15-0051	1.0169
15-0052	.8781
15-0053	.9661
15-0054	.9460
15-0056	1.1940
15-0057	.8652
15-0058	1.1080
15-0059	.9446
15-0060	1.0174
15-0061	1.0301
15-0062	.9578
15-0063	.9717
15-0064	.9850
15-0065	1.0155
15-0066	1.0147
15-0067	.9263
15-0069	.9368
15-0070	.9648
15-0071	.9580
15-0072	1.0573
15-0073	.9591
15-0074	1.1401
15-0075	1.0524
15-0076	.9954
15-0077	1.0376
15-0078	.9615
15-0079	.9625
15-0081	.9536
15-0082	1.1286
15-0083	.9210
15-0084	1.2308
15-0085	.8912
15-0086	.9998
15-0088	.9699
* 15-0135	.9764
16-0001	.9205
16-0002	.9502
16-0003	.9897
16-0004	1.0834
16-0005	.9499
* 16-0007	.8623
16-0008	.9767
16-0009	1.0134
16-0012	.9807
16-0013	1.0353
16-0014	.9436
16-0016	1.0276
16-0018	.8943
16-0020	.8993

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
16-0021	.9581
16-0023	1.0160
16-0024	.9611
16-0025	1.1137
16-0026	.9166
16-0027	1.0456
16-0028	1.0267
16-0029	1.0450
16-0030	1.0473
16-0031	.9544
16-0032	.9307
16-0033	1.0855
16-0034	.9578
16-0035	.9000
16-0036	1.0222
16-0037	.9784
16-0038	1.0058
16-0039	.9134
16-0040	.9569
16-0041	.9550
16-0043	1.0234
16-0044	1.0227
16-0045	1.1427
* 16-0046	.9501
16-0047	1.0347
16-0048	1.0128
16-0049	.8639
16-0050	.9812
* 16-0051	.9931
16-0052	1.0289
16-0053	.9819
16-0054	.9678
16-0055	1.0171
16-0056	.9654
16-0057	1.0286
16-0058	1.1657
16-0059	1.0559
16-0060	.9281
16-0061	.8833
16-0062	.9244
* 16-0063	.9647
16-0064	1.0179
16-0065	.9634
16-0066	.9308
16-0067	1.0290
16-0068	.8997
16-0069	1.1154
16-0070	.9180
* 16-0071	1.0497
16-0072	1.0114
16-0073	.9391
16-0074	.9808
16-0075	.9061
16-0076	.9179
16-0077	.9092
16-0079	1.0741
16-0080	.9781
16-0081	1.0225
16-0082	1.1818
16-0083	1.1449
16-0085	1.1847
16-0086	.9272
16-0088	.9139
16-0089	1.0033
16-0090	.9390
16-0091	1.0610
16-0092	.8927
16-0093	.9208
16-0094	1.0379
16-0095	.9385
16-0097	.9333
* 16-0098	.9197
16-0099	.9240
16-0101	.9995
16-0102	1.0102
16-0103	.8508
16-0104	.9808
16-0106	.9571
16-0107	.9553
16-0108	.9884
* 16-0109	.9328
16-0110	1.1096
* 16-0111	1.0084
16-0112	.9901
16-0113	.9448
16-0114	.9141
16-0115	.9372
16-0116	.9512
16-0117	1.1318
16-0118	.9214
* 16-0119	.9106
16-0120	.8688
16-0121	.9185
16-0122	.9784
16-0123	1.0356
16-0124	.9510
16-0126	.9759
16-0129	.9464
16-0130	.9528
16-0131	1.0527
* 16-0132	.9886
16-0133	1.0089
16-0134	.8440
16-0135	.8767
* 16-0136	.9925
16-0138	.9331
* 16-0139	1.0357
16-0140	1.0011
16-0141	.9115
16-0142	.9403
16-0143	1.0710
16-0145	1.0412
16-0146	1.0251
16-0147	.9815
* 16-0151	.8897
16-0152	.9414
16-0153	1.0469
17-0001	.9804
17-0002	.9519
17-0003	1.0500
17-0004	.9334
17-0005	.8790
17-0006	.9879
17-0007	.9432
17-0008	.9114
17-0009	.9623
17-0010	.9665
17-0011	1.0141
17-0012	1.1290
17-0013	.9946
17-0014	.9344
17-0015	.9967
17-0016	1.1760
17-0017	1.0083
17-0018	1.0141
17-0019	1.0148
17-0020	1.0225
17-0021	.9227
17-0022	.9242
17-0023	.9833
17-0024	.9496
17-0025	.9231
17-0026	.9297
17-0027	.9482
17-0030	.8855
17-0031	.8403
17-0032	.9178
17-0033	.9557
* 17-0034	.9445
17-0035	.9522
17-0036	.8950
17-0037	1.0380
17-0038	.8562
17-0039	.8941
17-0040	1.1699
* 17-0041	.9626
17-0043	.9311
17-0044	.8810
17-0045	.8305
17-0046	.9044
17-0049	1.0401
* 17-0050	.9425
17-0051	.9106
17-0052	.9737
17-0053	.8806
17-0054	.9530
* 17-0055	.8441
17-0056	.9074
17-0057	.9101
17-0058	.9775
17-0060	1.0323
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17-0062	.8635
* 17-0063	.9511
* 17-0064	.8501
17-0066	1.0493
17-0067	.9093
17-0068	.9580
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17-0070	.9034
17-0072	.8821
17-0073	.9041
17-0074	.9848
* 17-0075	.9217
17-0076	1.0290
17-0077	.8984
* 17-0079	.8425
* 17-0080	.8898
* 17-0081	1.0354
* 17-0082	.9320
17-0084	.9081
17-0085	.9436
17-0086	1.1580
17-0087	1.0626
17-0088	.9736
* 17-0089	.9062
* 17-0090	.8742
17-0091	.9427
17-0092	.9814
17-0093	1.0835
17-0094	.9649
17-0095	.9685
* 17-0096	.8993
17-0097	.9378
17-0098	.9353
* 17-0099	1.0272
* 17-0100	.8490
17-0101	.9091
17-0102	.9280
17-0103	.9459
17-0104	1.0365
17-0105	.9691
17-0106	.8446
* 17-0108	.8258
17-0109	.9547
17-0110	.9756
17-0112	.8927
17-0113	1.0255
17-0114	.9989
17-0115	.8819
17-0116	.9195
* 17-0117	.9174
* 17-0119	.9149
17-0120	.9478
* 17-0121	.9751
17-0122	1.1650
17-0123	1.1147
17-0124	.8690
17-0125	1.0009
17-0126	.8696
17-0128	.8889
17-0130	.9303
17-0131	.9607
17-0133	.9858
* 17-0134	.9263
17-0137	1.0516
17-0138	.9398
* 17-0139	.8597
17-0140	.8947
17-0142	.9509
17-0143	.9998
17-0144	.9944
17-0145	.9885
17-0146	1.0282
17-0147	1.0502
17-0148	1.0607
17-0150	.9141
17-0151	.9467
17-0152	.8871
* 17-0159	.9814
17-0160	.9265
17-0164	.8525
* 17-0166	1.0426
* 17-0168	.9448
* 17-0170	.9242

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
17-0171	.9717	18-0048	1.0497	18-0123	1.0436	19-0050	.9178	19-0134	.9204
17-0172	1.0120	18-0049	.9988	18-0124	.9783	19-0053	.9056	19-0135	1.1368
* 17-0173	.9454	18-0050	.9783	18-0125	.9063	19-0054	1.0439	19-0136	.8764
* 17-0174	.9558	18-0051	1.0002	18-0126	.9006	19-0058	.9682	19-0137	.8498
17-0175	1.0579	18-0053	.9866	18-0127	.9969	19-0059	.9419	19-0138	.5773
17-0176	1.0010	18-0054	.9401	18-0128	.9254	19-0060	.9864	19-0139	.9243
* 17-0177	.9164	18-0055	.9449	18-0129	1.0330	19-0064	1.0612	19-0140	.8749
18-0001	1.0122	18-0056	.9912	18-0130	1.0750	19-0065	1.1454	19-0141	.8961
18-0002	.9376	18-0058	.9036	18-0132	1.0564	* 19-0066	.9207	19-0142	.8818
18-0004	.9780	18-0059	.9740	18-0133	1.0649	19-0067	.9409	19-0144	.9663
18-0005	1.0032	18-0060	.8611	19-0001	.9174	19-0071	.8918	19-0145	.8928
18-0006	.8639	18-0062	.8859	19-0002	1.2789	19-0073	.8840	19-0146	1.1411
18-0007	1.0649	18-0063	.8986	19-0003	.9658	19-0075	.9672	19-0147	.9542
18-0008	1.1047	18-0064	.9944	19-0004	1.0075	19-0077	.9987	19-0148	.9517
18-0009	.9675	18-0065	.8533	19-0005	1.0233	19-0078	.9674	19-0149	.9210
18-0010	1.1925	18-0066	.9660	19-0006	1.0148	19-0079	.9462	19-0151	.9628
18-0011	.9579	18-0067	1.2113	19-0007	.8803	19-0081	.8535	* 19-0152	.9838
18-0012	.9795	18-0069	1.0319	19-0008	1.0207	19-0083	.8894	* 19-0155	.9410
18-0013	1.0884	18-0070	.9352	19-0009	.9671	19-0086	1.0137	19-0156	.9267
18-0014	1.0360	18-0072	1.0095	19-0010	.8864	19-0088	.9490	19-0157	.9267
18-0015	.9155	18-0075	.8439	19-0011	.9360	19-0089	1.0009	19-0158	.9844
18-0016	.9699	18-0078	.9465	19-0012	.8814	19-0090	.8424	* 19-0159	.9644
18-0017	1.0037	18-0079	.8907	19-0013	.9803	19-0092	1.0230	19-0160	.9831
18-0018	1.0065	18-0080	.9940	19-0014	.9004	19-0095	.8775	19-0161	.9392
18-0019	.9824	18-0081	1.0675	19-0015	.9627	19-0098	1.1795	19-0162	1.0801
18-0020	.8908	18-0085	1.0824	19-0016	.9893	19-0099	.9810	19-0163	.9547
18-0021	.9064	18-0087	1.0137	19-0017	.9310	19-0101	.8737	19-0164	.8787
18-0023	.9021	18-0088	1.1517	19-0018	.9375	19-0102	1.1081	19-0165	.8611
18-0024	.9271	18-0092	.9191	19-0019	1.0591	19-0103	.8878	19-0166	.9333
18-0025	1.0876	18-0093	1.1228	19-0020	.9669	19-0106	.9563	19-0167	.9420
18-0026	.8585	18-0094	.9708	19-0023	.9003	19-0109	1.0159	19-0168	1.1071
18-0027	.9595	18-0095	.9605	19-0025	1.0073	* 19-0110	1.0195	* 19-0169	.9063
18-0028	.9296	18-0099	.9917	19-0026	1.0000	19-0111	.9848	19-0170	.8880
18-0029	.9716	18-0100	1.0459	19-0027	.9941	19-0112	.9982	* 19-0172	.9548
18-0030	.9341	18-0101	.9256	* 19-0028	.8768	19-0113	1.0491	19-0173	1.0609
18-0031	.8912	18-0102	1.0859	19-0029	1.0121	19-0114	.8853	19-0175	.9783
18-0032	.9382	18-0103	1.1559	19-0033	.8831	19-0115	.9846	19-0176	1.2539
18-0033	.9442	18-0104	1.0416	19-0034	1.0032	19-0116	.9608	19-0177	.9513
18-0034	.9538	18-0105	.9123	19-0035	1.0296	19-0117	.8776	* 19-0178	.9817
18-0035	1.0912	18-0106	.9075	19-0036	1.1530	19-0118	.9524	19-0179	.9411
18-0036	.9096	18-0108	.9367	* 19-0037	.9285	19-0119	.9688	19-0180	.9315
18-0037	1.0687	18-0112	.9345	19-0039	1.0040	19-0120	.8763	19-0182	.9546
18-0038	1.0067	18-0114	.8507	19-0040	.9453	19-0122	.9492	19-0183	.8476
18-0040	1.2414	18-0115	.9200	19-0041	1.0962	19-0124	1.0266	19-0184	.9139
18-0041	.9252	18-0116	.9915	19-0043	.9625	19-0125	1.0500	19-0190	.8928
18-0042	.9290	18-0117	.8604	19-0044	.9023	19-0127	.9472	20-0001	1.1542
18-0043	.9450	18-0118	.9065	19-0045	.9913	* 19-0128	.9146	20-0002	.9663
18-0044	.9571	* 18-0119	.8575	19-0046	1.0724	19-0130	.9105	20-0003	.9418
18-0045	.9607	18-0120	.9169	19-0047	.8959	19-0131	.9010	20-0005	.8287
18-0046	.9980	18-0121	.8653	19-0048	.9627	19-0132	.9766	20-0006	1.0202
18-0047	.9742	18-0122	.9261	19-0049	.9517	19-0133	.9516	20-0007	1.0408

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
20-0008	1.0348
20-0009	1.2570
20-0012	1.0541
20-0013	1.1206
20-0015	1.0912
20-0016	1.0160
20-0017	1.0195
20-0018	.9890
20-0019	1.0470
20-0020	1.0353
20-0021	.9798
* 20-0023	.9221
20-0024	1.0725
20-0025	.9990
20-0026	.9751
20-0027	.9607
20-0028	.9212
* 20-0029	.8761
* 20-0030	1.0667
20-0031	1.0467
20-0032	1.0921
20-0033	1.2005
20-0034	1.0383
20-0037	1.0031
20-0038	.9809
20-0039	1.0693
20-0040	.9744
20-0041	1.0016
* 20-0043	1.0654
20-0044	1.0294
20-0046	1.0923
20-0047	.9960
* 20-0049	.9499
20-0050	1.0066
20-0051	1.0150
20-0052	1.0245
* 20-0053	1.0633
* 20-0054	.9639
20-0055	.9502
* 20-0056	.6518
20-0062	.9952
20-0063	1.0699
* 20-0064	.9868
* 20-0065	.9611
20-0066	1.0957
21-0001	1.0460
21-0002	1.2424
21-0003	1.0945
21-0004	1.0691
21-0005	1.0886
21-0006	1.0373
21-0007	1.1256
21-0008	1.0893
21-0009	1.1877
21-0010	.9586
21-0011	1.1419
21-0012	1.0528
21-0013	1.0291
21-0015	1.0890
21-0016	1.1114
21-0017	1.0328
21-0018	1.1006
21-0019	1.1554
21-0021	1.0111
21-0022	1.1489
21-0023	1.0638
21-0024	1.1139
21-0025	.9810
21-0026	1.0514
21-0027	1.0322
21-0028	.9610
21-0029	1.2160
21-0030	.9633
21-0031	1.4180
21-0032	1.0238
21-0033	1.0941
21-0034	1.0674
21-0035	1.1310
21-0036	1.0745
21-0037	1.0281
21-0038	1.0049
21-0039	1.0095
21-0040	1.1698
21-0041	1.0280
21-0042	1.0793
21-0043	1.0740
21-0044	.9627
21-0045	.9591
21-0046	.8778
21-0047	.8542
21-0048	.9861
21-0049	1.0130
21-0051	1.1282
21-0054	1.0135
21-0055	1.0319
21-0056	1.1307
21-0057	1.1326
22-0001	1.0654
22-0002	1.2137
22-0003	.9432
22-0004	1.0415
22-0005	1.0650
22-0006	1.0690
22-0008	1.0856
22-0009	1.0391
22-0010	1.0813
22-0011	1.1047
22-0012	1.0972
22-0015	1.0725
22-0016	1.0120
22-0017	1.1343
22-0019	1.0389
22-0020	1.0414
22-0021	1.0228
22-0022	.9233
22-0023	1.0371
22-0024	1.0623
22-0025	1.0631
22-0026	1.0501
22-0028	1.0167
22-0029	1.0133
22-0030	.9724
22-0031	1.1367
22-0033	1.0680
22-0034	.9636
22-0035	1.0775
22-0036	1.1273
22-0038	1.0861
22-0040	1.0048
22-0041	1.1151
22-0042	1.0158
22-0044	1.5153
22-0045	1.0646
22-0046	1.0623
22-0048	1.0233
22-0049	.9826
22-0050	.9166
22-0051	1.0758
22-0052	1.0847
22-0053	1.0310
22-0054	1.0540
22-0055	1.0530
22-0057	1.0286
22-0058	.9688
22-0060	1.0541
22-0061	1.0307
22-0062	.8675
22-0063	1.0012
22-0064	1.0128
22-0065	1.0193
22-0066	1.0344
22-0067	1.1180
22-0068	.9745
22-0069	1.0513
22-0070	1.0531
22-0071	1.3418
22-0072	.9464
22-0073	1.0883
22-0074	1.0257
22-0075	.6135
22-0076	1.0716
22-0077	1.0913
22-0079	1.0208
22-0080	1.0895
22-0081	.9167
22-0082	1.0107
22-0083	1.0490
22-0084	1.0752
22-0086	1.1475
22-0087	.9053
22-0088	1.2643
22-0089	1.0742
22-0090	1.0145
22-0091	1.0125
22-0092	1.0452
22-0094	1.0052
22-0095	1.0139
22-0096	.8993
22-0097	.9543
22-0098	1.0137
22-0099	.9286
22-0100	1.1262
22-0101	1.0939
* 22-0102	.9050
22-0104	1.0672
22-0105	1.0643
22-0106	1.0525
22-0107	.9692
22-0108	1.0716
22-0110	1.4161
22-0111	1.0795
* 22-0113	1.0068
22-0114	.9770
22-0115	1.0583
22-0116	1.3035
22-0117	.9356
22-0118	1.2522
22-0119	1.1369
22-0120	1.0327
22-0121	.9574
* 22-0122	1.1334
22-0123	1.0192
22-0126	1.0500
22-0128	1.0706
22-0129	1.0403
22-0130	.8948
22-0131	1.0270
* 22-0133	.8903
22-0135	1.0621
* 22-0153	.8381
22-0154	.9081
22-0156	1.0532
* 22-0159	1.1322
22-0162	1.0539
22-0163	1.2802
* 22-0167	.5330
* 22-0171	.9701
23-0001	.9001
23-0002	1.0899
23-0003	1.0526
23-0004	1.1176
23-0005	.9903
23-0006	.9663
23-0007	.8475
23-0008	.9735
23-0011	1.0652
23-0012	.9442
23-0013	1.0779
23-0014	.9115
23-0015	1.0057
23-0017	1.1264
23-0019	1.1360
23-0020	1.0384
23-0021	1.1285
23-0022	1.0517
23-0023	1.0135
23-0024	1.1266
23-0027	.9902
23-0029	1.0781
23-0030	1.0720
23-0031	1.0638
23-0032	1.2909
23-0034	.9736
23-0035	.9689
23-0036	1.0570
23-0037	1.0990
23-0038	1.2677
23-0039	1.1020
23-0040	1.0149
23-0041	1.0448
23-0042	.9858
23-0043	.9143
23-0044	.9182
23-0046	1.1451
23-0047	1.0208

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
* 23-0049	.8455
23-0051	.9821
23-0052	1.0386
23-0053	1.2072
23-0054	1.1307
23-0055	.9967
23-0056	.9656
23-0057	.9486
23-0058	1.0690
23-0059	1.1489
23-0060	.9719
23-0062	.9815
23-0063	1.0620
23-0065	1.0642
23-0066	1.0149
* 23-0067	.8938
23-0068	1.0975
23-0069	1.0182
23-0070	1.0451
* 23-0071	1.0608
23-0072	1.0472
23-0075	1.0511
23-0076	1.1255
23-0077	1.1733
23-0078	.9466
23-0079	.9881
23-0080	.9756
23-0081	1.0196
23-0082	.9461
23-0084	.9237
23-0085	.9287
23-0086	.9242
23-0087	1.0576
23-0089	1.0329
23-0090	1.0040
23-0092	1.0503
23-0093	1.0873
23-0095	.9848
23-0096	.9776
23-0097	1.0900
23-0098	1.0978
23-0099	.9788
23-0100	1.0042
23-0101	.8659
23-0102	1.0280
23-0103	.9883
23-0104	1.1505
23-0105	1.1475
23-0106	1.0781
23-0107	1.0371
23-0108	.9997
23-0110	.9873
23-0111	.9960
23-0113	.8063
23-0114	.7636
23-0115	.9645
23-0116	.9248
23-0117	1.2374
23-0118	.9849
23-0119	.9762
23-0120	.9417
23-0121	1.0000
23-0122	1.0053
* 23-0123	.9099
23-0124	1.0747
23-0125	1.2363
23-0126	1.1601
23-0128	1.0797
23-0129	1.2708
23-0130	1.1545
23-0132	1.0952
23-0133	1.0803
23-0134	.9545
23-0135	1.0014
23-0137	1.0047
23-0138	.8970
23-0139	.9357
23-0140	.9577
23-0141	1.1122
23-0142	1.1031
23-0143	1.0139
23-0144	.9612
23-0145	1.0225
23-0146	1.1145
23-0147	1.0164
23-0149	1.0399
23-0150	1.1375
23-0151	1.1642
23-0152	1.0088
23-0153	1.0161
23-0154	.9997
23-0155	.9854
23-0156	1.1978
23-0157	1.0871
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23-0159	1.0064
* 23-0161	.9430
* 23-0162	.9334
23-0163	.8883
23-0165	1.1926
23-0167	1.0476
23-0168	.9064
23-0169	1.0750
* 23-0170	.9422
* 23-0171	.9016
23-0172	.9425
23-0173	1.0036
23-0174	1.0454
* 23-0175	1.0649
23-0176	1.0069
23-0177	.8949
23-0178	1.0000
* 23-0179	.9152
23-0180	.9485
23-0181	.9621
23-0183	.9513
23-0184	.9435
23-0186	.8739
23-0188	1.0262
23-0189	.9714
* 23-0190	.8755
23-0191	.8970
23-0193	.9767
23-0194	1.0035
23-0195	1.1300
* 23-0196	.8802
23-0197	1.0523
23-0199	.9859
23-0201	.8719
* 23-0203	.9321
23-0204	1.1156
23-0205	1.0521
23-0207	1.0266
23-0208	.9517
* 23-0211	.9315
23-0212	1.0032
23-0213	.9925
23-0216	1.1073
23-0217	.9092
23-0219	.9320
23-0221	1.0071
23-0222	1.0553
23-0223	1.0645
23-0224	.9951
23-0225	.9934
23-0227	.9757
23-0228	1.0492
23-0230	1.1236
23-0231	.9588
* 23-0232	.9410
23-0235	.9122
23-0236	1.0200
23-0237	.9693
23-0238	.9554
23-0239	.9476
* 23-0240	1.6514
23-0241	1.0063
23-0244	1.0368
23-0253	1.0061
23-0254	1.0457
* 23-0255	.9682
23-0256	.9555
23-0257	.9730
* 23-0258	.8890
23-0259	.9931
* 23-0260	.7722
23-0261	1.0595
* 23-0262	1.1735
* 23-0264	.8651
23-0265	1.0451
23-0266	1.0327
23-0268	1.0833
23-0269	1.0678
23-0270	1.0197
23-0271	1.0146
* 23-0272	.8755
23-0273	1.2589
24-0001	1.0656
24-0002	1.1283
24-0003	.9951
24-0004	1.2218
* 24-0005	.9512
24-0006	.9328
24-0007	.9512
24-0008	1.0410
24-0009	.9740
24-0010	1.3412
24-0011	1.0023
24-0013	.9536
24-0014	1.0053
24-0016	1.0454
24-0017	.9514
24-0018	.9845
24-0019	.8914
24-0020	.9570
* 24-0021	.9362
24-0022	1.0091
24-0023	.9175
24-0024	1.0207
24-0025	.9579
24-0026	1.0604
24-0027	1.0167
24-0028	1.0315
24-0029	.9304
24-0030	.9867
24-0031	.9051
* 24-0033	.9362
24-0035	.9908
24-0036	1.0486
24-0037	.9316
24-0038	1.1182
24-0040	.9863
24-0041	1.0133
24-0043	1.0943
24-0044	1.0564
24-0045	.9748
24-0046	1.1192
24-0047	1.0605
24-0048	.9796
24-0049	1.2427
24-0050	.9879
24-0051	1.0323
24-0052	1.1077
24-0053	1.1601
24-0054	.9500
24-0055	1.0660
24-0056	1.0424
24-0057	1.1249
24-0058	1.0069
24-0059	.9169
24-0061	1.1724
24-0062	.9931
24-0063	1.1076
24-0064	.9471
24-0065	.9365
24-0066	.9358
* 24-0068	1.4289
24-0069	1.0280
24-0071	.9339
24-0072	.8808
24-0073	.9363
24-0074	.9632
24-0075	1.0413
24-0076	.9624
* 24-0077	.8600
24-0078	1.0444
24-0079	.9191
24-0080	1.1055
24-0081	1.0838
24-0082	.9974
24-0083	.9231
24-0084	1.0736
24-0085	.9966
24-0086	.9419
24-0087	.9785

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
24-0088	1.0744
24-0089	1.0593
24-0090	.9532
24-0091	.9686
24-0093	1.1072
24-0094	.9148
24-0096	.9291
24-0097	.9962
24-0098	.9310
24-0099	.9721
24-0100	1.0284
24-0101	1.0411
* 24-0102	.9412
24-0103	.9574
24-0104	1.0056
24-0105	.9379
24-0106	1.1373
24-0107	.9704
24-0108	.9431
24-0109	.9402
24-0110	.8871
24-0111	1.0052
24-0112	.9712
* 24-0114	1.0593
24-0115	1.0850
24-0116	1.0122
24-0117	.9631
* 24-0118	.9253
* 24-0119	.9689
24-0120	.9687
24-0121	.9255
24-0122	.8899
24-0123	1.0245
24-0124	.9491
* 24-0125	.9788
* 24-0127	1.0380
24-0128	.9931
24-0129	.8705
24-0130	.9692
24-0131	1.0770
24-0132	.9724
24-0133	.9382
* 24-0134	1.0904
* 24-0135	.9074
24-0136	.8983
24-0137	.9704
24-0138	.9443
24-0139	1.0242
* 24-0140	.9713
24-0141	.9761
24-0142	.9759
24-0143	.9970
24-0144	.9300
* 24-0145	.9778
24-0146	.9125
* 24-0148	.8705
* 24-0150	.8454
24-0152	.9457
24-0153	.9301
24-0154	.9208
24-0155	.9000
* 24-0156	1.0417
24-0157	.9760
24-0158	.9710
24-0160	.9184
24-0161	.8901
24-0162	1.1019
* 24-0163	.8796
* 24-0165	.9542
24-0166	.9454
24-0167	1.0083
24-0169	.9083
24-0170	1.0075
24-0171	.8859
24-0172	.9689
24-0173	.9341
24-0175	1.0378
* 24-0176	1.0006
24-0177	.9294
24-0179	.9993
24-0180	.9324
24-0183	.9080
24-0184	.9510
24-0187	.9674
* 24-0189	.8863
* 24-0192	.9599
* 24-0193	.8783
24-0194	.9280
* 24-0195	1.0795
24-0196	1.1318
* 24-0200	.8962
* 24-0201	.9795
* 24-0204	1.0481
25-0001	1.2292
25-0002	.8571
25-0003	.8892
25-0004	1.0213
25-0005	.9038
25-0006	.9723
25-0007	1.0142
25-0008	.9084
25-0009	.9664
25-0010	.8977
25-0012	.9716
25-0014	.9426
25-0015	.9001
25-0016	.8613
25-0017	.9950
25-0018	.9781
25-0019	1.0720
25-0020	.9391
25-0021	.9230
25-0023	.8629
25-0024	.9371
25-0025	.9864
25-0026	.9110
25-0027	.8973
25-0029	.9171
25-0030	.9024
25-0031	1.0275
25-0032	1.0675
25-0033	.9033
25-0034	.8902
25-0035	.9199
25-0036	.8792
25-0037	.9304
25-0038	.9026
25-0039	.9035
25-0040	1.0221
25-0041	.9110
25-0042	.9682
25-0043	.8814
25-0044	.8573
25-0045	.9798
25-0046	.8607
25-0047	.8564
25-0048	1.1567
25-0049	.9586
25-0050	1.0422
25-0051	.9975
25-0054	.9130
25-0057	.9624
25-0058	1.0094
25-0059	.8825
25-0060	.9662
25-0061	.9396
25-0062	1.0146
25-0063	.9153
25-0065	.8938
25-0066	.8969
25-0067	.9158
25-0068	.9104
25-0069	.9791
25-0071	.9347
25-0072	.9766
25-0073	.8612
* 25-0075	1.0124
25-0076	.7980
25-0077	.9102
25-0078	1.0341
25-0079	.8585
25-0080	.9410
25-0081	1.0269
25-0082	1.0596
25-0083	.9275
25-0084	.9955
25-0085	.8889
25-0086	.9226
* 25-0087	.9478
25-0088	.9413
25-0089	.9596
25-0091	.8594
25-0093	.9371
25-0094	.9984
25-0095	.8666
25-0096	1.0062
25-0097	.9721
* 25-0098	.9388
25-0099	.9761
25-0100	1.0584
* 25-0101	.8607
25-0102	1.1268
25-0103	.9378
25-0104	.9922
25-0105	.8708
25-0106	.9354
25-0107	.8600
25-0108	1.0037
25-0109	.9410
25-0110	.9594
25-0111	.7991
25-0112	.8448
25-0113	.9554
* 25-0114	.9443
* 25-0116	.9198
25-0117	.9038
25-0118	1.0097
25-0119	.8970
25-0120	.9782
25-0121	.8653
25-0122	.9573
25-0123	.8880
25-0124	.8461
25-0125	.9252
25-0126	.9413
* 25-0127	.9900
25-0128	.9674
25-0129	.9951
* 25-0130	.9535
* 25-0131	.8804
25-0132	.9514
26-0001	1.0564
26-0002	.9843
26-0003	.9442
26-0004	.9881
26-0005	.9841
26-0006	1.0280
26-0007	.9825
26-0008	1.0947
26-0009	1.0193
26-0010	.9621
26-0011	.9755
26-0012	.8599
26-0013	.9647
26-0014	1.0422
26-0015	.9721
26-0016	.9603
26-0017	.9757
26-0018	.9406
26-0019	.8982
26-0020	1.0186
26-0021	.9865
26-0022	.9438
26-0023	.9736
26-0024	.9719
26-0025	.9855
26-0026	1.0119
26-0027	1.1319
26-0029	.9487
26-0030	.9303
26-0031	.9934
26-0032	1.0653
26-0033	1.0780
26-0034	.9198
26-0035	.9096
26-0036	.9221
26-0037	.9606
26-0038	.9307
26-0039	.9935
26-0040	1.0775
26-0041	.9236
26-0042	.9369
26-0044	1.0186
26-0045	.9302
26-0047	.9974

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
26-0048	1.0377
26-0049	1.0033
26-0050	.9449
26-0051	.9290
26-0052	1.0050
26-0053	.9425
26-0054	1.0201
26-0055	.9247
26-0056	.8863
26-0057	.9431
26-0058	1.0638
26-0059	.9595
26-0061	.9592
26-0062	.9822
26-0063	1.0474
26-0064	.9247
26-0065	1.1259
26-0066	.9509
26-0067	.9421
26-0068	1.0899
26-0070	.9207
26-0072	.8658
26-0073	.9122
26-0074	.9846
26-0077	1.0302
26-0078	.9091
26-0079	.9028
26-0080	.8902
26-0081	1.0594
26-0082	.9943
26-0083	.9009
26-0084	.9410
26-0085	.9829
26-0086	1.0779
26-0088	.9443
26-0089	.9674
26-0090	1.0786
26-0091	.9966
26-0092	.9189
26-0093	.9657
26-0094	.9475
26-0095	1.0512
26-0096	1.0517
26-0097	.9418
26-0100	.9665
* 26-0101	1.4882
26-0102	.9550
26-0103	1.0248
26-0104	1.0180
26-0105	1.3544
* 26-0106	.8384

PROVIDER NUMBER	CASE MIX INDEX
26-0107	.9861
26-0108	1.0406
26-0109	.9948
26-0110	.9653
26-0111	.8871
26-0112	1.0379
26-0113	.9928
26-0115	.9940
26-0116	.9265
* 26-0117	.9171
26-0118	1.0239
26-0119	.9517
26-0120	.9805
26-0121	.9155
26-0122	.9742
26-0123	.8843
26-0127	.9323
26-0128	.9891
26-0129	.9807
26-0131	.9544
26-0133	.9746
26-0134	.9587
26-0136	1.0110
26-0137	.9595
26-0138	1.1887
* 26-0140	.9331
26-0141	1.1019
26-0142	1.0122
26-0143	.9355
26-0146	1.0906
26-0147	.9407
26-0148	.9137
26-0150	1.0431
26-0158	.9800
26-0159	.8744
26-0160	.9824
26-0162	.9983
26-0163	.9576
26-0164	.9548
26-0165	.9902
26-0166	1.0225
26-0172	.9293
26-0173	.8997
26-0175	.9983
26-0176	1.0138
26-0177	1.0226
26-0178	1.0478
26-0179	1.0538
26-0180	1.0708
26-0182	.9594
26-0183	.9991

PROVIDER NUMBER	CASE MIX INDEX
26-0186	.9628
* 26-0187	1.0112
26-0188	1.0219
26-0189	.9979
26-0190	1.0558
26-0191	1.0270
* 26-0192	.7214
* 27-0001	.8451
27-0002	.9843
27-0003	1.0713
27-0004	1.2288
* 27-0006	1.0733
27-0007	.8760
27-0008	.9223
27-0009	.9504
* 27-0010	.8264
27-0011	.9784
27-0012	1.0371
27-0013	1.0285
27-0014	1.1273
* 27-0016	.9098
27-0017	1.0693
27-0018	.9078
27-0019	1.0073
27-0021	.9339
27-0023	1.1021
27-0024	1.0226
* 27-0026	.8670
* 27-0027	1.0609
* 27-0028	.9571
27-0029	.9456
* 27-0030	.9477
27-0031	.8840
27-0032	.9698
* 27-0033	.8893
* 27-0035	.9575
* 27-0036	1.0143
27-0039	.9263
27-0040	1.0036
* 27-0041	1.0312
* 27-0042	.8321
27-0043	.8394
27-0044	1.0292
27-0046	.9637
* 27-0047	.9448
27-0048	.8720
27-0049	1.1707
27-0050	.9225
27-0051	1.0695
* 27-0052	.9697
* 27-0053	.9432

PROVIDER NUMBER	CASE MIX INDEX
27-0054	.9181
27-0057	1.0890
27-0058	1.0178
* 27-0059	.9688
* 27-0060	.9265
27-0061	.8647
* 27-0063	.9742
* 27-0064	.6116
27-0065	.9723
* 27-0067	.8625
* 27-0068	1.0042
* 27-0070	.9264
* 27-0071	.9451
* 27-0072	.9157
* 27-0073	1.0191
* 27-0079	.9487
27-0080	.9719
* 27-0081	1.0302
28-0001	.9381
28-0003	1.1119
* 28-0004	.9267
28-0005	1.0917
28-0006	.9692
28-0009	1.0058
* 28-0010	.9990
28-0011	.9142
28-0012	.9809
28-0013	1.1267
28-0014	.9443
28-0015	.8649
28-0017	.9366
28-0018	.8543
28-0020	1.0782
28-0021	.9673
* 28-0022	.9752
28-0023	1.0201
28-0024	.9306
28-0025	.8278
* 28-0026	.9467
28-0028	.9063
* 28-0029	.9169
28-0030	1.1059
28-0031	.9403
28-0032	.9749
28-0033	.9020
28-0034	1.0782
28-0035	.8810
28-0037	1.0268
28-0038	.9214
28-0039	.9760
28-0040	1.1077

PROVIDER NUMBER	CASE MIX INDEX
28-0041	.9562
28-0042	.8626
28-0043	.9695
28-0045	.9395
28-0046	.9573
28-0047	.9708
28-0048	.9326
28-0049	.9650
* 28-0050	.8639
* 28-0051	.9518
28-0052	1.0076
28-0054	.9457
28-0055	.9558
* 28-0056	.9687
28-0057	.9065
28-0058	.9856
28-0060	1.0433
28-0061	1.0779
28-0062	.9328
* 28-0063	.9897
28-0064	.9171
28-0065	.9955
28-0066	.9406
28-0068	.8874
* 28-0070	1.0519
28-0071	.9603
28-0073	.9397
28-0074	1.0130
28-0075	.9229
28-0076	.9725
28-0077	1.0943
* 28-0078	.8988
28-0079	.9964
28-0080	.9302
28-0081	1.0719
28-0082	.8869
28-0083	1.0025
28-0084	.9752
28-0085	1.0123
28-0087	1.0480
28-0088	1.0729
28-0089	.9272
* 28-0090	.8921
28-0091	1.0474
28-0092	.9432
* 28-0093	.9209
28-0094	.8323
28-0097	.9328
* 28-0098	.8663
* 28-0101	.8780
28-0102	.9440

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
28-0103	1.0067
28-0104	.9043
28-0105	1.0910
* 28-0106	.9809
28-0107	.9820
28-0108	.9561
28-0109	1.0018
28-0110	1.0363
28-0111	.9464
* 28-0114	.8427
28-0115	.9839
* 28-0116	.8391
28-0117	.9423
28-0118	.9345
* 28-0121	1.1947
29-0001	1.0690
29-0002	.9076
29-0003	1.0514
29-0005	.9118
29-0006	.9338
29-0007	1.1040
29-0008	1.0706
29-0009	.9933
29-0010	.9133
* 29-0011	.8938
29-0012	.9546
* 29-0013	.9264
29-0014	.9342
* 29-0015	1.0503
* 29-0016	.9864
* 29-0018	1.1637
29-0019	1.0251
* 29-0020	.9313
29-0021	.9586
29-0022	1.0531
29-0024	.8044
* 29-0027	1.0450
30-0001	1.0706
30-0002	1.0147
30-0003	1.2082
30-0005	.9916
30-0006	.9984
30-0007	1.0149
30-0008	1.0593
30-0009	1.0302
30-0010	.9305
30-0011	1.0210
30-0012	1.0647
30-0013	1.0320
30-0014	1.0514
30-0015	.9508

PROVIDER NUMBER	CASE MIX INDEX
30-0016	1.0289
30-0017	.9896
30-0018	1.0261
30-0019	.9670
30-0020	.9593
30-0021	.8941
30-0022	.9701
30-0023	1.1175
30-0024	.9723
30-0028	1.0214
30-0029	1.0326
30-0033	.9319
30-0034	1.0097
31-0001	1.0894
31-0002	1.3571
31-0003	1.0207
31-0005	1.0412
31-0006	1.0801
31-0008	1.1124
31-0009	1.0028
31-0010	1.1202
31-0011	1.0869
31-0012	1.0886
31-0013	.9926
31-0014	1.1295
31-0015	1.1186
31-0016	1.0904
31-0017	1.1341
31-0018	.9193
31-0019	1.0659
31-0020	1.0296
31-0021	1.0361
31-0022	1.0746
31-0024	1.0762
31-0025	1.0435
31-0026	1.0759
31-0027	.9997
31-0028	1.0708
31-0029	1.1238
31-0031	1.3030
31-0032	1.0405
31-0033	1.0555
31-0034	1.0671
31-0036	.9961
31-0037	1.0640
31-0038	1.0227
31-0039	1.0249
31-0040	1.0313
31-0041	1.0449
31-0042	1.0479
31-0043	1.0020

PROVIDER NUMBER	CASE MIX INDEX
31-0044	1.0607
31-0045	1.1604
31-0046	1.0536
31-0047	1.0947
31-0048	1.0281
31-0049	1.0408
31-0050	1.0799
31-0051	1.1180
31-0052	1.0690
31-0053	1.0055
31-0054	1.1114
31-0056	1.0439
31-0057	1.1858
31-0058	1.0219
31-0059	.9845
31-0060	1.0222
31-0061	1.0189
31-0062	.9210
31-0063	1.0649
31-0064	1.1122
31-0065	.9777
31-0067	1.0345
31-0068	1.0403
31-0069	.9613
31-0070	1.0890
31-0071	1.0195
31-0072	.9869
31-0073	1.0630
31-0074	1.0718
31-0075	1.1039
31-0076	1.1096
31-0077	1.0654
31-0078	1.0645
31-0080	1.0274
31-0081	1.0772
31-0083	1.0632
31-0084	1.0674
31-0085	1.0600
31-0086	1.0885
31-0087	1.0517
31-0088	.9607
* 31-0089	1.1298
31-0090	.9701
31-0091	1.0227
31-0092	1.0905
31-0093	1.0231
31-0094	.9903
31-0096	1.1101
31-0104	1.0618
31-0105	.9832
31-0106	1.1342

PROVIDER NUMBER	CASE MIX INDEX
31-0108	1.0690
* 31-0109	1.1564
31-0110	.9922
31-0111	1.0501
31-0112	1.0615
31-0113	1.0809
31-0114	.9894
31-0115	1.0038
31-0116	1.1095
31-0117	1.0598
31-0118	.9808
31-0119	.9540
31-0120	.9751
32-0001	1.1245
32-0002	1.0249
32-0003	1.0063
32-0004	.9918
32-0005	1.0275
32-0006	.9551
32-0009	1.0666
32-0010	.9464
32-0011	.9444
32-0012	.9445
32-0013	1.0636
32-0014	.9597
32-0016	.9459
32-0017	1.0463
32-0018	1.0382
32-0019	1.0430
32-0021	1.1565
32-0022	1.0179
* 32-0023	.8901
32-0027	.9240
* 32-0028	1.2955
32-0030	1.0122
* 32-0031	.9102
32-0032	.8865
32-0033	.9777
32-0035	.9564
32-0036	.9925
* 32-0037	.8872
* 32-0038	.9472
32-0046	.9635
* 32-0048	.9308
32-0049	.9694
* 32-0051	.9191
32-0053	.8848
* 32-0058	.9302
32-0063	1.0199
32-0065	1.0712
* 32-0066	.9650

PROVIDER NUMBER	CASE MIX INDEX
* 32-0067	.8381
* 32-0068	.9153
33-0001	1.0839
33-0002	1.0630
33-0003	1.0800
33-0004	1.0401
33-0005	1.1782
33-0006	1.1018
33-0007	1.0873
33-0008	.9910
33-0009	.9235
33-0010	1.0152
33-0011	1.0335
33-0012	1.0906
33-0013	1.1639
33-0014	1.1011
33-0015	.9833
33-0016	1.0021
33-0019	1.0207
33-0020	1.0022
33-0022	1.0067
33-0023	1.0666
33-0024	1.2084
33-0025	.9377
33-0027	1.1130
33-0028	1.1085
33-0029	1.0161
33-0030	1.0193
33-0032	.9632
33-0033	1.0441
33-0034	1.0020
33-0036	.9145
33-0037	1.0547
33-0038	.9972
33-0039	1.0464
33-0041	1.0442
33-0043	1.0328
33-0044	1.0977
33-0045	1.1350
33-0046	1.1270
33-0047	.9817
33-0048	1.0162
33-0049	.9971
33-0050	.9750
33-0052	.9422
33-0053	.9636
33-0055	1.1054
33-0056	1.0567
33-0057	1.1662
33-0058	.9755
33-0059	1.1297

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
33-0061	1.0889
33-0062	.9754
33-0063	1.0377
33-0064	1.0435
33-0065	.9951
33-0066	1.0455
33-0067	1.0136
33-0069	1.0619
33-0072	1.0973
33-0073	.9969
33-0074	1.0892
33-0075	.9778
33-0076	1.0514
33-0077	.9862
33-0078	1.1620
33-0079	.9963
33-0080	.9728
33-0082	1.0101
33-0084	.9411
33-0085	1.1371
33-0086	1.0333
33-0087	1.0252
33-0088	1.0259
33-0090	1.2043
33-0091	1.1041
33-0092	.9893
33-0094	1.0751
33-0095	1.0239
33-0096	.9559
33-0097	1.0668
33-0098	1.0643
33-0100	.5620
33-0101	1.1613
33-0102	1.0971
33-0103	1.1007
33-0104	1.0754
33-0106	1.1755
33-0107	1.0037
33-0108	1.0096
33-0109	.9424
33-0110	.9293
33-0111	.9941
33-0114	.9394
33-0115	1.0733
33-0116	.9463
33-0117	1.0126
33-0118	1.1327
33-0119	1.1070
33-0120	1.2679
33-0121	.9390
33-0122	1.0039
33-0124	1.0937
33-0125	1.2954
33-0126	1.0682
33-0127	1.0698
33-0128	1.1425
33-0132	1.0446
33-0133	1.0458
33-0134	1.0789
33-0135	.9850
33-0136	1.1027
33-0138	1.0398
33-0139	.8422
33-0140	1.1470
33-0141	1.1366
33-0142	1.0362
33-0143	1.0283
33-0144	1.0173
33-0146	.9401
33-0147	.8931
33-0148	.9942
33-0150	.9607
33-0151	1.0159
33-0152	1.0591
33-0153	1.0909
33-0154	1.1797
33-0155	.9896
33-0157	1.0881
33-0158	1.0560
33-0159	1.1446
33-0160	1.1112
33-0161	.9998
33-0162	1.1221
33-0163	.9743
33-0164	1.2719
33-0165	.9441
33-0166	.9612
33-0167	1.1494
33-0168	.9796
33-0169	1.0554
33-0171	1.1071
33-0172	.9971
33-0174	.9218
33-0175	1.0601
33-0176	.9589
33-0177	.8957
33-0179	.9451
33-0180	1.0246
33-0181	1.1070
33-0182	1.3603
33-0183	1.1246
33-0184	1.0908
33-0185	1.0959
33-0186	1.0141
33-0187	.9584
33-0188	1.0345
33-0189	.7307
33-0191	1.0844
33-0193	1.1007
33-0194	1.1098
33-0195	1.2568
33-0196	1.1320
33-0197	.9626
33-0198	1.0983
33-0199	1.0565
33-0201	1.0634
33-0202	1.0260
33-0203	1.1357
33-0204	1.0705
33-0205	.9960
33-0208	1.0828
33-0209	1.0339
33-0210	.9767
33-0211	.9744
33-0212	.9710
33-0213	.9755
33-0214	1.1671
33-0215	1.0290
33-0217	.9653
33-0218	1.0449
33-0219	1.1660
33-0221	1.0568
33-0222	1.0097
33-0223	.9275
33-0224	1.0664
33-0225	1.1058
33-0226	.9583
33-0229	1.0338
33-0230	.9882
33-0231	1.0756
33-0232	1.0081
33-0233	1.0494
33-0234	1.2893
33-0235	1.0534
33-0236	1.1029
33-0238	.9911
33-0239	1.0780
33-0240	1.0334
33-0241	1.3027
33-0242	1.0804
33-0244	1.0236
33-0245	1.0709
33-0246	1.0443
33-0247	.5690
33-0249	1.0198
33-0250	1.0418
33-0252	.8739
33-0253	.8805
33-0254	1.0423
33-0256	.9342
33-0257	.9375
33-0258	1.0656
33-0259	1.1574
33-0260	1.1017
33-0261	1.0469
33-0263	.9576
33-0264	1.0359
33-0265	1.0749
33-0266	.9176
33-0267	1.0128
33-0268	1.0786
33-0270	1.5995
33-0272	.9676
33-0273	.9718
33-0275	1.1302
33-0276	.9438
33-0277	.9572
33-0279	1.1320
33-0281	.9126
33-0283	1.0398
33-0285	1.2413
33-0286	1.0773
33-0288	1.0083
33-0289	.7942
33-0290	1.1694
33-0291	1.0009
33-0293	1.1364
33-0297	1.0521
33-0298	.9068
33-0299	1.0448
33-0300	.8755
33-0304	1.0965
33-0305	1.0127
33-0306	1.1295
33-0307	1.0197
33-0308	1.0857
33-0309	1.0635
33-0310	.9845
33-0311	1.0260
33-0314	1.0942
33-0315	1.0894
33-0316	1.0543
33-0318	1.0280
33-0320	1.0300
33-0321	1.0729
33-0323	.9797
33-0324	1.0029
33-0327	.9449
33-0331	1.0581
33-0332	1.0324
33-0333	.9145
33-0335	1.0149
33-0336	1.0427
33-0338	1.0358
33-0339	1.1701
33-0340	.9619
33-0342	1.0346
33-0345	.7094
33-0350	1.3728
33-0351	.8800
33-0353	1.0619
33-0354	.9874
33-0355	.9557
33-0357	1.0493
33-0359	.9720
33-0372	1.0408
33-0377	1.1421
33-0379	1.1283
33-0382	1.0128
33-0383	1.0143
33-0385	1.0790
33-0386	.9790
33-0387	1.1787
33-0389	1.2904
33-0390	1.0139
33-0391	1.0655
33-0393	.9166
34-0001	1.0157
34-0002	1.1542
34-0003	1.0177
34-0004	1.0406
34-0005	.9505
34-0006	.9512
34-0007	.9816
34-0008	.9876
34-0009	.4854
34-0010	1.0226
34-0011	.9759
34-0012	.9536
34-0013	1.0507
34-0014	1.1021
34-0015	.9687
34-0016	.9574
34-0017	1.0139
34-0018	1.0973

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
34-0019	.9866
34-0020	1.0146
34-0021	1.0172
34-0022	.9238
34-0023	.9764
34-0024	1.0505
34-0025	.9995
34-0026	.9099
34-0027	1.0209
34-0028	1.0232
34-0030	1.1117
34-0031	.9769
34-0032	1.0394
34-0034	.9832
34-0035	.9253
34-0036	.9875
34-0037	.9374
34-0038	.9591
34-0039	.9747
34-0040	1.0896
34-0041	1.0607
34-0042	1.0102
34-0044	.9757
* 34-0045	.9517
34-0047	1.2294
* 34-0048	.9074
34-0049	.5237
34-0050	1.0159
34-0051	1.0113
34-0052	.9545
34-0053	.9480
34-0054	.9182
34-0055	.9546
* 34-0056	1.0002
* 34-0057	1.0265
34-0058	1.0631
34-0060	.9589
34-0061	1.1567
34-0063	.9269
34-0064	.9911
34-0065	1.0153
34-0067	.9005
34-0068	.9539
34-0069	1.1403
34-0070	1.0150
34-0071	.9652
34-0072	.9982
34-0073	.8894
34-0075	.9373
34-0076	.9127
* 34-0077	.9587

PROVIDER NUMBER	CASE MIX INDEX
* 34-0078	1.0138
* 34-0079	1.0003
34-0080	.9318
34-0084	1.0008
34-0085	1.0130
* 34-0086	.8900
34-0087	.9862
34-0088	.9868
34-0089	.9156
34-0090	1.0181
34-0091	1.1050
34-0092	1.0593
34-0093	.9364
34-0094	.9631
34-0096	.9799
34-0097	1.0266
34-0098	1.0049
34-0099	.9607
34-0100	.9107
* 34-0101	1.0052
34-0104	.9838
34-0105	1.0150
34-0106	.8821
34-0107	1.0450
34-0109	1.0207
34-0111	1.0025
34-0112	1.0164
34-0113	1.1720
34-0114	1.0254
34-0115	.9990
34-0116	1.0949
34-0117	.9331
34-0119	1.0709
34-0120	.9901
34-0121	.9830
* 34-0122	1.0107
34-0123	1.0179
34-0124	.9368
34-0125	1.0710
34-0126	1.0360
34-0127	1.0228
34-0128	.9495
34-0129	.9527
34-0130	1.0000
34-0131	1.0362
34-0132	.9968
34-0133	.9379
34-0141	1.0461
34-0142	1.0303
34-0143	1.0092
34-0144	1.0381

PROVIDER NUMBER	CASE MIX INDEX
34-0145	.9399
* 34-0146	1.0770
34-0147	1.0437
34-0148	.8603
* 34-0150	1.2896
34-0151	.9494
34-0153	1.2472
34-0155	1.0760
34-0157	.7531
34-0158	.9460
34-0159	.9500
34-0160	.9382
* 34-0162	.9011
* 35-0001	.8110
35-0002	1.0055
35-0003	1.0283
35-0004	1.1511
35-0005	1.0634
35-0006	1.0072
35-0007	.9168
35-0008	.8802
35-0009	.9711
35-0010	.9501
35-0011	1.2177
35-0012	1.0158
35-0013	.9294
35-0014	.9627
35-0015	1.0703
35-0016	1.0082
35-0017	.8967
35-0018	1.0006
35-0019	1.1040
35-0020	.9549
* 35-0021	.8789
35-0023	.9562
* 35-0024	.8914
* 35-0025	.8584
* 35-0027	.8458
35-0029	.8631
35-0030	.9154
* 35-0031	.8880
35-0032	.9583
35-0033	.8865
35-0034	.9534
* 35-0035	.9469
* 35-0036	.9344
* 35-0037	.9021
35-0038	.8833
35-0039	.9222
* 35-0041	.9399
* 35-0042	.8972

PROVIDER NUMBER	CASE MIX INDEX
35-0043	1.0020
35-0044	.9115
* 35-0045	.8770
35-0047	.9978
35-0048	.8257
35-0049	.8807
35-0050	.9192
35-0051	.9333
* 35-0053	.9439
35-0055	.8475
35-0056	.9819
35-0058	.8846
35-0060	1.0350
35-0061	.9258
36-0001	1.0590
36-0002	1.0044
36-0003	1.1468
* 36-0005	1.2805
36-0006	1.1577
36-0007	.9710
36-0008	.9685
36-0009	1.0637
36-0010	1.0100
36-0011	1.1115
36-0012	1.7516
36-0013	.9931
36-0014	.9132
36-0015	1.1763
36-0016	1.0844
36-0017	1.0158
36-0018	1.0353
36-0019	1.0147
36-0020	1.0559
36-0021	.9718
36-0022	1.0195
36-0023	1.0446
36-0024	1.0543
36-0025	.9822
36-0026	1.0299
36-0027	1.1634
36-0028	1.0797
36-0029	1.0465
36-0030	1.0442
36-0031	1.0036
36-0032	.9574
36-0033	.9932
36-0034	1.0312
36-0035	1.1539
36-0036	.9424
36-0037	1.1579
36-0038	.9595

PROVIDER NUMBER	CASE MIX INDEX
36-0039	1.0097
36-0040	1.0596
36-0041	1.1539
36-0042	.9993
36-0044	.9886
36-0045	1.0920
36-0046	.9491
36-0047	.9852
36-0048	1.2355
36-0049	1.0223
36-0050	.9664
36-0051	1.1585
36-0052	1.1788
36-0053	1.0813
36-0054	1.0576
36-0055	1.0685
36-0056	1.0297
36-0057	.9561
36-0058	1.0159
36-0059	1.1333
36-0060	.8856
* 36-0061	.6570
36-0062	1.1103
36-0063	.8768
36-0064	1.1608
36-0065	.9732
36-0066	1.0404
36-0067	.9565
36-0068	1.1059
36-0069	.9891
36-0070	1.0816
36-0071	.9881
36-0072	1.0688
36-0074	1.0433
36-0075	1.1005
36-0076	.9819
36-0077	1.1223
36-0078	1.0573
36-0079	1.2189
36-0080	.9500
36-0081	1.0332
36-0082	1.1139
36-0083	1.0115
36-0084	1.0984
36-0085	1.2317
36-0086	1.0158
36-0087	1.1082
36-0088	.9868
36-0089	1.0454
36-0090	1.0246
36-0091	1.0621

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
36-0092	1.0001
36-0093	.9323
36-0094	.9922
36-0095	1.0524
36-0096	.9781
36-0097	1.0100
36-0098	1.1063
36-0099	1.0375
36-0100	1.0263
36-0101	1.1545
36-0102	1.0993
36-0103	1.0706
36-0104	.9967
36-0105	1.1383
36-0107	.9200
36-0108	.9920
36-0109	.9878
* 36-0110	.9521
36-0112	1.1521
36-0113	1.0656
36-0114	.9816
36-0115	1.0353
36-0116	.9707
36-0118	1.0694
36-0119	.9855
36-0120	.9629
36-0121	.9747
36-0122	1.0665
36-0123	.9141
36-0124	1.0015
36-0125	.9914
36-0126	.9824
36-0127	1.0078
36-0128	1.0187
36-0129	.9536
* 36-0130	1.0459
36-0131	1.0260
36-0132	.9716
36-0133	1.0496
36-0134	1.1962
36-0135	.9142
36-0136	.9970
36-0137	1.1666
36-0139	1.0351
* 36-0140	.9988
36-0141	1.0878
36-0142	.9616
36-0143	1.0782
36-0144	1.0452
36-0145	1.1181
36-0147	.9563
36-0148	1.0042
36-0149	.9511
36-0150	1.0703
36-0151	1.0154
36-0152	1.0462
36-0153	.9500
36-0154	.9942
36-0155	1.0223
36-0156	.9316
36-0159	1.0320
* 36-0160	.9395
36-0161	1.0330
36-0162	1.0181
36-0163	1.1913
36-0164	.9092
36-0165	1.0405
36-0166	.9584
36-0167	.9471
* 36-0168	1.0336
36-0169	.9357
36-0170	.9537
36-0171	1.0785
36-0172	1.0024
36-0174	.9511
36-0175	.9852
36-0176	.9722
36-0177	1.0325
36-0178	.8976
36-0179	1.0747
36-0180	1.2916
36-0184	1.0128
36-0185	1.0028
36-0186	.9087
36-0187	1.0564
36-0188	1.1044
36-0189	1.0167
36-0190	1.0818
36-0192	1.0555
36-0193	1.0079
36-0194	.9933
36-0195	.9982
36-0197	.9861
36-0200	.9031
36-0203	.9686
36-0204	1.0563
36-0210	.9851
36-0211	.9379
36-0212	1.1060
36-0213	1.0754
36-0218	1.0333
* 36-0220	.8840
* 36-0226	1.8281
36-0230	1.0945
36-0231	.9461
36-0232	1.0845
36-0234	1.0040
36-0236	1.0301
* 36-0237	.8680
* 36-0238	1.0633
36-0239	1.0277
36-0345	1.0216
37-0001	1.1319
37-0002	.9301
* 37-0003	.8735
37-0004	1.0206
37-0005	.9887
37-0006	1.0330
37-0007	1.0923
37-0008	1.0820
37-0011	.9303
37-0012	.8972
37-0013	1.0977
37-0014	.9448
37-0015	.9748
37-0016	1.0308
37-0017	.9617
37-0018	1.0455
37-0019	.9459
37-0020	1.0337
37-0021	.9526
37-0022	.9919
37-0023	1.0245
37-0025	1.0326
37-0026	1.0551
37-0028	1.1636
37-0029	.9588
37-0030	.9700
37-0032	1.0175
37-0033	.9318
37-0034	.9779
37-0035	1.1846
37-0036	.9484
37-0037	1.0767
37-0038	.8719
37-0039	.9658
37-0040	.9333
37-0041	.8585
37-0042	.8287
37-0043	.8529
37-0045	1.0122
37-0046	.8739
37-0047	.9323
37-0048	.8780
37-0049	1.0020
37-0050	.8690
37-0051	.9758
37-0054	1.0510
37-0056	1.0782
37-0057	1.0260
37-0059	.9423
37-0060	.9812
37-0061	.9392
37-0063	.9021
37-0064	.8809
37-0065	.9507
37-0069	.8760
37-0071	.8879
37-0072	.9349
* 37-0073	.7047
37-0076	1.0013
37-0077	1.0827
37-0078	1.0140
37-0079	.9448
37-0080	.9076
* 37-0082	.9551
37-0083	.8897
37-0084	.8795
37-0085	.9021
37-0086	.9529
37-0089	.9493
37-0090	.9806
37-0091	1.1209
37-0092	.9083
37-0093	1.1186
37-0094	1.0154
37-0095	.9213
* 37-0096	.9830
37-0097	1.0053
37-0098	.8649
37-0099	.8546
37-0100	.8987
37-0103	.9423
37-0105	1.3905
37-0106	.8648
37-0107	.9231
37-0108	.9496
* 37-0109	.9200
37-0110	.9591
37-0112	.9326
37-0113	.9505
37-0114	1.1139
37-0116	.8953
37-0117	.9565
37-0121	.9711
37-0122	.8298
37-0123	.9431
37-0125	.9566
37-0126	.9254
37-0130	.9029
* 37-0131	.9682
37-0133	.9434
37-0136	.9253
37-0138	.8882
* 37-0139	.9347
* 37-0140	.8972
37-0141	1.0392
37-0144	.9976
* 37-0146	.9677
37-0148	1.0021
37-0149	1.0565
37-0153	.9371
37-0154	.9104
* 37-0155	.8229
37-0156	.9653
37-0157	.9124
37-0158	.9413
37-0159	1.0359
37-0161	.8500
37-0163	.8545
37-0165	.8952
37-0166	.9061
* 37-0167	1.2308
* 37-0168	.9136
37-0169	.9059
37-0176	.9156
* 37-0177	1.0948
37-0178	.9535
37-0179	.8352
38-0001	1.1221
38-0002	.9787
38-0003	1.0944
38-0004	1.2293
38-0005	.9888
38-0006	1.0451
38-0007	1.1264
38-0008	1.0605
38-0009	1.3144
38-0010	1.0363
38-0011	1.0350
38-0013	1.0769
38-0014	1.0946
* 38-0016	.9528
38-0017	1.1359
38-0018	1.1568

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
38-0019	.9868
38-0020	1.1839
38-0021	1.0650
38-0022	1.0937
38-0023	.9157
38-0024	1.0639
38-0025	1.0607
38-0026	1.0879
38-0027	1.0449
38-0029	.9302
* 38-0030	.9097
38-0031	.9144
38-0033	1.1672
38-0035	1.0396
38-0036	.9531
38-0037	1.0779
38-0038	1.0823
38-0039	1.1230
38-0040	1.0097
38-0041	.9135
38-0042	1.0023
38-0043	.9669
* 38-0044	.9939
38-0045	1.0570
38-0047	1.1700
38-0048	.9805
38-0050	1.1182
38-0051	1.1251
38-0052	1.0608
* 38-0054	.9572
38-0055	1.1162
38-0056	.9960
* 38-0059	.9415
38-0060	1.1080
38-0061	1.2193
* 38-0062	.8488
38-0063	1.1037
38-0064	1.0678
* 38-0065	1.0563
38-0066	1.1398
* 38-0067	.8818
38-0068	1.0453
38-0069	.9213
38-0070	1.0047
38-0071	.9584
38-0072	.9733
38-0074	1.0036
38-0075	1.0659
* 38-0076	.9348
38-0077	.9205
38-0078	1.1134

PROVIDER NUMBER	CASE MIX INDEX
38-0079	1.1114
* 38-0081	.9328
38-0082	1.1136
38-0083	.9788
38-0084	1.0949
38-0087	.9033
* 38-0088	1.0018
38-0089	1.1308
38-0090	1.1266
38-0091	1.1417
38-0093	.8044
39-0001	1.1696
39-0002	1.0706
39-0003	.9722
39-0004	1.0209
39-0005	.9372
39-0006	1.1583
39-0007	1.0401
39-0008	.9933
39-0009	1.0945
39-0010	1.0534
39-0011	1.0687
39-0012	1.0655
39-0013	1.0264
39-0014	.9772
39-0015	1.0660
39-0016	1.0448
39-0017	1.0181
39-0018	1.0312
39-0019	1.0103
39-0020	1.0015
39-0021	1.0828
39-0022	1.0775
39-0023	1.0276
39-0024	.5851
* 39-0025	.8936
39-0026	1.1212
39-0027	1.1807
39-0028	1.1836
39-0029	1.1473
39-0030	.9771
39-0031	1.0179
39-0032	1.0607
39-0034	.9717
39-0035	1.1358
39-0036	1.0053
39-0037	1.0413
39-0038	.9470
39-0039	.9841
39-0040	.9228
39-0041	1.0349

PROVIDER NUMBER	CASE MIX INDEX
39-0042	1.0240
39-0043	1.0397
39-0044	1.1119
39-0045	1.1068
39-0046	1.1405
39-0047	1.0928
39-0048	1.0697
39-0049	1.0951
39-0050	1.2507
39-0051	1.2185
39-0052	.9726
39-0054	1.0367
39-0055	1.2044
39-0056	1.0698
39-0057	1.0978
39-0058	1.0560
39-0059	1.1523
39-0060	1.0761
39-0061	1.0900
39-0062	.9703
39-0063	1.1051
39-0064	1.1118
39-0065	1.0541
39-0066	1.0202
39-0067	1.1272
39-0068	1.0157
39-0069	1.0402
39-0070	1.0236
39-0071	.9950
39-0072	.9735
39-0073	1.0825
39-0074	1.0134
39-0075	1.0881
39-0076	1.0311
39-0077	1.0573
39-0078	.9200
39-0079	1.2657
39-0080	1.0433
39-0081	1.0383
39-0082	1.1113
39-0083	1.0924
39-0084	.9410
39-0086	.9983
39-0087	.9208
39-0088	.9581
39-0090	1.1549
39-0091	.9939
39-0092	.9705
39-0093	1.0799
39-0095	.9461
39-0096	1.0819

PROVIDER NUMBER	CASE MIX INDEX
39-0097	1.0858
39-0098	1.1580
39-0099	.9913
39-0100	1.0608
39-0101	1.0671
39-0102	1.1216
39-0103	.9925
39-0104	1.0284
39-0106	.8933
39-0107	1.1383
39-0108	1.1140
39-0109	.9478
39-0110	1.0483
39-0111	1.3157
39-0112	1.1224
39-0113	.9850
39-0114	.9575
39-0115	1.1379
39-0116	1.0026
39-0117	.9980
39-0118	.9262
39-0119	1.0728
39-0120	.9745
39-0121	.9932
39-0122	.9732
39-0123	1.1098
39-0125	1.0355
39-0126	1.1038
39-0127	1.0369
39-0128	.9893
39-0130	.9714
39-0131	1.0863
39-0132	.9814
39-0133	1.1492
39-0135	.9974
39-0136	1.0413
39-0137	1.0587
39-0138	1.1336
39-0139	1.0804
39-0141	.9978
39-0142	1.1691
39-0143	.6881
39-0145	1.0603
39-0146	.9977
39-0147	.9831
39-0148	.9993
39-0149	1.0430
39-0150	.9964
39-0151	1.0661
39-0152	1.0495
39-0153	1.1077

PROVIDER NUMBER	CASE MIX INDEX
39-0154	.9939
39-0155	1.0062
39-0156	1.0997
39-0157	1.0365
39-0158	1.0621
39-0159	1.0632
39-0160	.9590
39-0161	1.0732
39-0162	1.0745
39-0163	1.0696
39-0164	1.2770
39-0165	1.0299
39-0166	1.0383
39-0167	1.0913
39-0168	.9974
39-0169	1.0585
39-0170	1.1907
39-0171	1.0114
39-0172	1.0593
39-0173	1.0142
39-0174	1.1798
39-0176	1.0266
39-0177	.8956
39-0178	1.1098
39-0179	1.0749
39-0180	1.0862
39-0181	.9786
39-0183	.9697
39-0184	.9579
39-0185	1.0457
39-0186	1.0795
39-0187	1.0108
39-0188	1.0610
39-0189	.9687
39-0190	1.0105
39-0191	.8974
39-0192	.9319
39-0193	.9671
39-0194	1.0062
39-0195	1.2255
39-0196	1.1883
39-0197	.9846
39-0198	.9191
39-0199	1.0033
39-0200	1.0081
39-0201	1.1083
39-0203	1.0790
39-0204	1.0862
39-0205	1.0550
39-0206	1.0212
39-0209	1.0366

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
39-0211	1.0320
39-0213	.9934
39-0215	1.0223
39-0217	1.0201
39-0219	1.0610
39-0220	.9870
39-0222	.9910
39-0223	1.0092
39-0224	.9223
39-0225	1.0067
39-0226	1.1125
39-0228	1.0774
39-0229	1.1366
39-0231	1.1161
39-0232	1.0375
39-0233	1.0529
39-0234	1.0251
39-0235	1.0972
39-0236	.9639
39-0237	1.1249
* 39-0238	.8338
39-0240	.9106
39-0242	1.0558
39-0244	.8692
39-0245	1.0751
39-0246	.9343
39-0247	.9848
* 39-0248	.8318
39-0249	1.0009
* 39-0252	.9297
39-0256	1.2441
39-0258	1.1048
* 39-0259	3.0592
39-0260	1.0490
39-0261	1.3798
39-0262	.8917
39-0263	1.1852
* 39-0264	.9814
39-0265	1.0675
39-0266	1.0372
39-0267	1.0525
39-0268	1.0863
39-0269	1.0970
40-0001	.9419
40-0002	.8940
40-0003	.9534
40-0004	1.0468
40-0005	.9082
40-0006	.9280
40-0007	.9297
48-0008	.9126
40-0009	.8425
40-0010	.9389
40-0011	.8714
40-0012	1.0834
40-0013	.8507
40-0014	.9415
40-0015	1.0942
40-0016	1.0888
40-0017	.9863
40-0018	.9181
40-0019	.9607
40-0021	1.0622
40-0022	1.0560
* 40-0023	.4616
40-0024	.9619
40-0025	.9679
40-0026	.8271
40-0027	.9950
40-0028	1.0896
40-0029	1.0156
* 40-0031	.9994
40-0032	.8903
* 40-0037	.9230
* 40-0038	.9915
40-0044	1.0730
* 40-0048	1.0065
* 40-0060	.9003
40-0061	1.0385
40-0079	1.0546
* 40-0083	.9863
40-0087	1.0721
40-0088	.8295
40-0089	.8628
40-0090	.9994
40-0091	1.1083
40-0092	.7990
40-0094	.8846
40-0098	.9015
40-0102	1.0140
40-0103	1.1572
40-0104	1.1150
40-0105	.9991
40-0106	.9972
40-0108	.8702
40-0109	.9885
40-0110	1.0125
41-0001	1.1385
41-0002	1.0223
41-0004	1.1503
41-0005	1.1209
41-0006	1.0324
41-0007	1.2142
41-0008	1.0068
41-0009	1.1785
* 41-0010	.6614
41-0011	.9945
41-0012	1.1583
41-0013	1.0126
41-0014	1.0468
41-0016	.8575
42-0002	.9158
42-0003	.9138
42-0004	1.0649
42-0005	.9685
42-0006	1.0164
42-0007	.9920
42-0009	.9419
42-0010	.9686
42-0011	.8508
42-0014	.9529
42-0015	.9670
42-0016	1.0002
42-0017	.9999
42-0018	1.0181
42-0019	1.0147
42-0020	.9061
42-0022	.9479
42-0023	.9592
* 42-0024	.8788
42-0026	.9408
42-0027	.9356
42-0028	.9596
42-0029	1.0635
42-0030	.9090
42-0031	.9154
42-0032	.8831
42-0033	.9243
42-0036	.9431
42-0037	1.0545
42-0038	.9091
42-0039	.9299
42-0040	.9703
42-0042	.9155
42-0043	.9399
42-0044	.9084
42-0048	.9059
42-0049	.9306
42-0050	.9607
42-0051	1.0269
42-0053	.9044
42-0054	1.0492
42-0055	.9635
42-0056	.9410
42-0057	.9215
42-0059	.8892
42-0061	.9241
42-0062	1.0097
42-0064	.9045
42-0065	.9960
42-0066	.8645
42-0067	.9468
42-0068	.9606
42-0069	.9393
42-0070	.9987
42-0071	.9771
42-0072	.9080
42-0073	.9695
42-0074	.9032
42-0075	.9572
42-0076	.7944
* 42-0077	.6332
42-0078	.9115
42-0079	1.1473
42-0080	1.0092
* 42-0081	.9910
42-0082	.9560
42-0083	.9474
* 42-0084	.7331
42-0085	.9623
42-0086	.9817
42-0087	1.0957
43-0001	.9800
43-0004	.9257
43-0005	.9390
43-0007	.9996
43-0008	.9615
43-0009	1.0695
43-0010	.9393
43-0011	1.0106
43-0012	1.0107
43-0013	.9082
43-0014	1.0527
43-0015	.9384
43-0016	1.1050
43-0017	.8661
43-0018	.9323
43-0020	1.0556
43-0022	.9298
43-0023	.9814
43-0024	.9618
43-0025	.9498
* 43-0026	.9043
43-0027	1.1922
43-0028	.8993
43-0029	.9732
43-0030	.9457
43-0031	.9059
43-0033	.9822
43-0034	.9168
43-0036	.9300
43-0037	.9262
43-0038	.9596
* 43-0039	1.0393
43-0040	.9803
* 43-0041	.9070
* 43-0042	.9397
43-0043	.9009
43-0044	.9248
43-0047	.9282
43-0048	.8992
* 43-0049	.8528
* 43-0051	.9288
43-0054	.8840
43-0056	.9013
43-0057	.9087
* 43-0060	.8752
43-0062	.7912
43-0064	.9033
* 43-0065	1.0056
43-0066	.8835
43-0072	1.0126
43-0073	.9664
43-0076	.9680
43-0077	1.0947
* 43-0079	.8010
* 43-0080	1.0114
43-0087	.8329
44-0001	.8741
44-0002	1.0590
44-0003	.9389
44-0005	.9387
44-0006	.9812
44-0007	.9167
44-0008	.8970
44-0009	.9250
44-0010	.9178
44-0011	.9937
44-0012	1.0169
44-0014	.8863
44-0015	1.0861
44-0016	.9035
44-0017	1.0608
44-0018	.9705
44-0019	.9963

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
44-0020	.9462
44-0021	.8609
44-0022	.9219
44-0023	.8867
44-0024	.9629
44-0025	.9597
44-0026	1.0477
* 44-0028	.8077
44-0029	.9243
44-0030	.9405
44-0031	.9538
44-0032	.8984
44-0033	.8926
44-0034	1.0107
44-0035	1.0158
44-0037	.8541
44-0038	.9671
44-0039	1.3700
44-0040	.9467
44-0041	.9319
* 44-0044	.9063
44-0046	.9202
44-0047	.9522
44-0048	1.2070
44-0049	1.0812
44-0050	.9145
44-0051	.8968
44-0052	.9056
44-0053	.9621
44-0054	.9196
* 44-0055	.8278
44-0056	.8897
44-0057	.9140
44-0058	.8927
44-0059	.9707
44-0060	.9185
44-0061	.9613
44-0063	1.0361
44-0064	.9341
44-0065	.9330
44-0067	.9357
44-0068	.9424
44-0069	1.0055
44-0070	1.0003
44-0071	.9929
44-0072	.9625
44-0073	1.0145
44-0074	.8589
44-0078	.9240
44-0079	.8898
44-0081	.9739
44-0082	1.2439
44-0083	.8533
44-0084	.9016
* 44-0086	.9052
44-0087	.9081
44-0090	.8195
44-0091	1.0499
44-0095	.8815
44-0100	.9005
44-0101	.8967
44-0102	.9504
44-0103	.9555
44-0104	1.0521
44-0105	.5475
44-0109	.9198
44-0110	.9252
44-0111	1.0584
44-0113	.8790
44-0114	.9305
44-0115	.8988
44-0117	.8531
44-0120	1.0110
44-0121	.9586
44-0123	1.0155
44-0125	1.0189
44-0130	.9978
44-0131	.9213
44-0132	.8716
44-0133	1.1479
44-0134	.9355
44-0135	.9576
44-0136	.9949
44-0137	.8718
44-0141	.8942
44-0142	.8702
44-0143	.9304
44-0144	.9141
44-0145	.8844
* 44-0146	1.1452
44-0147	.6098
44-0148	.9216
44-0149	.9203
44-0150	1.0625
44-0151	.9452
44-0152	1.1294
44-0153	.9281
44-0156	.9764
44-0157	.9661
44-0159	1.0359
44-0160	.8742
44-0161	1.0382
44-0162	.9214
44-0166	1.0682
44-0167	1.1181
44-0168	.9542
44-0169	.6485
44-0170	.6382
44-0171	.9541
44-0173	.9475
44-0174	.9230
44-0175	.8973
44-0176	.9620
44-0177	.8803
44-0178	.9144
* 44-0179	.5672
44-0180	.9107
44-0181	.9334
44-0182	.8824
44-0183	1.0888
44-0184	1.0174
44-0185	.9818
44-0186	.8918
44-0187	.8915
44-0189	.9083
44-0191	.9786
44-0192	.9796
44-0193	.8872
44-0194	1.0354
44-0196	.8349
44-0197	1.1307
* 44-0200	1.0556
45-0001	1.0425
45-0002	1.0452
45-0004	.9316
45-0005	.9456
45-0007	.9501
45-0008	1.0110
45-0010	.9939
45-0011	.9719
45-0013	1.0023
45-0014	.8750
45-0015	1.1829
45-0016	1.0321
45-0018	1.1279
45-0019	.9551
45-0020	.9476
45-0021	1.1245
45-0022	.9380
45-0023	1.0247
45-0024	.9654
45-0025	1.0808
45-0027	.8318
45-0028	1.0272
45-0029	.9891
45-0031	.9831
45-0032	.9920
45-0033	1.0686
45-0034	1.0347
45-0035	1.0251
45-0037	.9835
45-0039	1.0920
45-0040	1.0868
45-0041	.8837
45-0042	1.0338
45-0043	.9559
45-0044	1.1219
* 45-0045	1.0205
45-0046	.9740
45-0047	.9940
45-0048	.9259
45-0050	.9646
45-0051	1.0666
45-0052	.9748
45-0053	1.0110
45-0054	1.1315
45-0055	.9063
45-0056	1.0255
45-0057	.9649
45-0058	1.0094
45-0059	1.0082
45-0060	.9565
* 45-0063	.8784
45-0064	1.0332
45-0065	.9009
45-0066	.9819
45-0068	1.0379
45-0069	.9931
45-0070	.8755
45-0072	.9029
45-0073	.9071
45-0074	.9318
45-0076	1.2057
45-0077	.8557
45-0078	.8625
45-0079	1.0292
45-0080	.9293
45-0081	.9440
45-0082	.9443
45-0083	1.0568
45-0084	.9112
45-0085	.9520
45-0087	.9752
* 45-0088	.9607
45-0090	.9279
45-0092	.9482
* 45-0093	1.0038
45-0094	.9172
45-0095	.9094
45-0096	.9881
45-0097	1.0097
45-0098	.9625
45-0099	.9035
45-0101	1.0530
45-0102	.9354
45-0104	.9902
45-0107	1.0499
45-0108	.9183
45-0109	.8750
45-0110	1.0644
45-0111	.9830
45-0112	.9859
45-0113	.9296
45-0115	.9201
45-0116	1.0075
45-0118	1.0333
45-0119	.9145
45-0121	1.0001
* 45-0122	.8534
45-0123	.9679
45-0124	1.1718
45-0126	.9662
45-0127	.9503
45-0128	.9182
* 45-0129	.8816
45-0130	1.0145
45-0131	.8966
45-0132	.9919
45-0133	1.0818
45-0134	.8799
45-0135	1.0697
45-0136	.9466
45-0137	1.0378
* 45-0140	1.0363
45-0141	.8516
45-0142	.8894
45-0143	.9942
45-0144	.8868
* 45-0145	.8227
45-0146	.8707
45-0147	1.0274
45-0148	.9542
45-0149	.9015
45-0150	.8820
45-0151	.9320

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
45-0152	1.0637
45-0153	1.0321
45-0154	.9473
45-0155	.9718
45-0157	.9472
45-0160	.8600
45-0162	1.0153
45-0163	.9105
45-0164	.9275
45-0165	.9023
45-0166	.8960
45-0169	.9093
* 45-0170	.9689
45-0173	.9062
45-0174	.9481
45-0175	.9133
45-0176	.9905
45-0177	.9077
45-0178	.8891
45-0179	1.0641
* 45-0181	.8474
45-0182	.7896
45-0183	1.0035
45-0184	1.0194
45-0185	.9719
* 45-0186	.9120
45-0187	.9670
45-0188	.9222
45-0190	.9900
45-0191	.9775
45-0192	.9468
45-0193	1.4049
45-0194	.9453
45-0195	1.0594
45-0196	.9327
45-0197	.8757
45-0198	.9066
45-0200	1.0617
45-0201	.8564
45-0203	.9872
45-0206	.9256
45-0207	.9615
45-0208	.8994
45-0209	1.0455
45-0210	.9176
45-0211	.9791
45-0213	1.0863
45-0214	.9862
* 45-0215	.8013
* 45-0216	1.0524
45-0217	.8842
45-0218	.9147
45-0219	.8910
45-0221	.9742
45-0222	.9683
45-0224	.9661
45-0229	.9937
* 45-0230	.8358
45-0231	1.1428
45-0233	.8312
45-0234	.8202
45-0235	.9096
45-0236	.9068
45-0237	1.0442
45-0239	.9749
45-0241	.8900
45-0242	.8763
45-0243	.9023
45-0244	.8618
45-0246	.9643
45-0247	.9294
45-0248	.9218
45-0249	.9420
* 45-0250	.8247
45-0253	.8549
45-0256	.8744
45-0258	.8405
45-0259	.9989
* 45-0260	.9002
45-0261	.8806
45-0263	.9049
* 45-0264	.8534
45-0265	.9165
* 45-0267	.9073
45-0268	.9544
* 45-0269	.9062
45-0270	.8774
45-0271	.9066
45-0272	.9689
45-0274	.9398
45-0275	.8875
45-0276	1.0067
45-0278	.8569
45-0280	1.0200
45-0281	.9863
45-0282	.8619
45-0283	.8626
45-0284	.9461
45-0286	.9269
45-0288	.9153
45-0289	1.0559
45-0292	1.0027
45-0293	.8973
45-0296	.8962
45-0297	.8477
45-0299	.9271
* 45-0300	.9434
45-0303	.9334
45-0304	.9243
* 45-0305	.8967
45-0306	.8730
* 45-0307	.8642
45-0309	.9782
45-0311	.8631
45-0312	.9135
* 45-0314	.8950
45-0315	.9135
* 45-0317	.8868
45-0319	.8667
45-0320	1.0143
45-0321	.8509
* 45-0322	.8700
45-0324	.9706
45-0325	.9439
45-0327	.8602
45-0328	.8477
45-0330	.9500
* 45-0331	.9737
45-0332	.8919
45-0333	.9688
45-0334	.9145
* 45-0335	.9552
45-0337	.9426
* 45-0338	.9788
45-0340	.9539
45-0341	.8585
* 45-0342	.8588
45-0343	.8646
45-0346	.9699
45-0347	.9320
45-0348	.9206
45-0349	.8702
45-0351	.9202
45-0352	1.0307
45-0353	.9474
45-0355	.9254
45-0357	.9917
45-0358	1.2040
* 45-0359	.8656
45-0362	.8980
45-0365	.8994
45-0366	.9839
45-0369	.9734
45-0370	.8041
45-0371	.9156
45-0372	1.0156
45-0373	.9748
* 45-0374	.8306
45-0376	1.0107
45-0378	1.0314
45-0379	.9752
45-0381	.9592
45-0382	.8349
45-0388	1.0543
45-0389	.9706
45-0391	.9852
45-0393	.9804
45-0394	.9485
45-0395	.8849
* 45-0398	.8077
45-0399	.8915
45-0400	.8842
45-0402	1.0000
45-0403	.9648
* 45-0405	.9227
* 45-0409	.7163
* 45-0410	.9665
45-0411	.9239
45-0415	.9638
45-0416	.9666
45-0417	.8535
45-0418	1.0025
* 45-0419	.8572
45-0421	.8568
45-0422	.6131
45-0423	.8456
45-0424	.8844
45-0425	.9451
* 45-0426	1.0300
45-0429	.8353
45-0431	1.0087
* 45-0437	.9482
45-0438	.9790
* 45-0440	.9451
* 45-0446	.8622
45-0447	1.0489
45-0450	.8263
45-0451	.8930
45-0454	.8622
45-0455	.8788
45-0457	1.1336
* 45-0458	.8621
45-0459	.8546
45-0460	.8662
45-0462	1.0822
45-0464	1.0341
45-0465	.9721
45-0467	.9114
45-0469	.9753
45-0472	.9041
45-0473	.9116
45-0475	.9235
45-0476	.9079
45-0481	.8972
* 45-0482	.8452
45-0484	1.0079
45-0486	.9630
45-0488	.9717
45-0489	.8668
45-0490	.9564
45-0492	.8235
45-0493	.9409
45-0497	.9495
45-0498	.9490
45-0508	.9968
45-0513	.8812
45-0514	.9679
45-0517	.8619
45-0518	1.0326
45-0523	1.0086
45-0527	.8746
45-0530	.9697
45-0534	.8794
45-0535	.9757
45-0537	1.1519
45-0538	.9500
45-0539	.9941
45-0544	.9184
45-0545	.8666
45-0546	.9582
45-0547	.9382
45-0550	.8966
45-0551	.9276
45-0552	.9456
* 45-0557	1.0101
45-0558	.9523
45-0559	.9197
* 45-0560	1.1975
45-0561	.9802
45-0563	.9232
45-0565	.9971
45-0568	.9738
45-0569	.9164
45-0570	.8767
45-0571	1.0770

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
45-0573	.8638
45-0574	.8967
45-0575	.9231
* 45-0576	2.2615
45-0577	.8891
45-0578	.9250
45-0579	.8487
45-0580	.9073
45-0581	.9053
* 45-0582	.8480
* 45-0583	.8695
45-0584	.9420
45-0586	.8992
45-0587	.9406
45-0588	.8992
45-0590	1.0152
45-0591	.9196
45-0592	.9462
45-0595	.9602
45-0596	.9345
45-0597	.9264
45-0600	.9577
* 45-0601	.9095
* 45-0603	.8288
45-0604	.9453
45-0605	.9000
* 45-0607	.7409
45-0609	.9013
45-0610	1.0259
45-0611	.9002
45-0613	.8871
45-0614	.9446
45-0615	.8955
45-0616	.9294
45-0617	1.0601
* 45-0618	.8493
45-0620	.8687
45-0621	.8946
45-0623	.9053
45-0624	.8810
45-0626	.9043
45-0627	.9273
45-0628	.8936
45-0629	1.0363
45-0630	1.1510
45-0631	1.1391
45-0632	.8981
45-0633	.9929
45-0634	1.0382
45-0635	.9214
45-0637	.9442
45-0638	1.0059
45-0639	.9979
45-0641	1.0007
45-0643	.9204
45-0644	1.0221
45-0646	1.0566
45-0647	1.1059
45-0648	.9014
45-0649	.9459
* 45-0650	.6828
45-0651	1.0367
45-0652	.9612
45-0653	.9621
45-0654	.8595
45-0655	.9577
45-0656	1.0483
* 45-0657	.8180
45-0658	.8810
45-0659	1.0604
45-0660	1.0111
* 45-0661	.9098
45-0662	.9732
45-0665	.9441
45-0666	.9646
45-0667	.9083
45-0668	1.0130
45-0669	.9915
45-0670	.9481
45-0671	.9800
45-0672	.9901
45-0673	.8843
* 45-0674	.8983
45-0675	1.0172
45-0676	.8768
45-0677	.9465
45-0678	1.0085
45-0679	.9237
45-0681	.9830
45-0682	.9220
45-0683	.9562
45-0684	1.0426
45-0685	.9184
45-0686	1.0183
* 45-0687	.8834
45-0688	.9626
* 45-0689	1.2210
45-0690	1.0476
* 45-0691	1.0062
* 45-0693	.8551
45-0694	.9644
* 45-0695	.8044
45-0696	.9031
45-0697	.9747
45-0698	.8878
45-0699	.9650
* 45-0700	.9358
* 45-0701	1.0377
45-0702	1.0376
* 45-0703	.8924
46-0001	1.0477
46-0003	1.0877
46-0004	1.1328
46-0005	1.0196
46-0006	1.0186
46-0007	.9542
46-0008	1.0570
46-0009	1.2126
46-0010	1.1682
46-0011	.9357
46-0012	1.2103
46-0013	1.1239
* 46-0014	.9544
46-0015	.9971
* 46-0016	.9439
46-0017	.9866
* 46-0018	.8346
46-0019	.9057
* 46-0020	.9592
46-0021	1.0686
* 46-0022	1.0063
46-0023	1.0070
* 46-0024	1.0369
* 46-0025	.8721
46-0026	.9578
* 46-0027	.9138
* 46-0029	.9406
46-0030	.9012
46-0032	.8804
* 46-0033	.8589
* 46-0035	.9286
* 46-0036	.9098
46-0037	.9689
* 46-0038	1.0506
* 46-0039	.9267
46-0040	.8146
46-0041	1.0630
46-0042	1.1212
47-0001	1.0048
47-0003	1.1893
47-0004	.9996
47-0005	.9961
47-0006	.9210
47-0008	.9446
47-0010	1.0010
47-0011	1.0349
47-0012	1.0460
47-0013	.9574
47-0015	.9848
47-0016	.9326
47-0018	.9623
* 47-0020	.9200
47-0023	.9493
47-0024	.9328
48-0001	1.0953
48-0002	.9755
49-0001	.9231
49-0002	.8973
49-0003	.5567
49-0004	1.0089
49-0005	1.0639
49-0006	.9294
49-0007	1.2639
49-0008	1.0098
49-0009	1.3047
49-0010	.9679
49-0011	1.0710
49-0012	.9889
49-0013	.9901
49-0014	1.2285
49-0015	1.1158
49-0017	1.0962
49-0018	.9797
49-0019	1.0585
49-0020	.9516
49-0021	1.0426
49-0022	.9959
49-0023	1.0371
49-0024	1.1025
49-0027	.8868
49-0028	1.0640
49-0029	1.0098
49-0030	.9952
49-0031	1.0179
49-0032	1.3371
49-0033	.9392
49-0034	.8948
49-0035	.8820
49-0037	1.0459
49-0038	.9632
49-0039	1.0029
49-0040	1.0990
49-0041	.8060
49-0042	.9772
49-0043	1.0793
49-0044	1.0379
49-0045	1.1344
49-0046	1.1003
49-0047	.9911
49-0048	1.0286
49-0050	1.1112
* 49-0051	.8922
49-0052	1.0314
49-0053	1.0652
49-0054	.9961
49-0055	.9324
49-0056	.8771
49-0057	1.0306
49-0059	1.0507
49-0060	.9253
49-0063	1.1490
49-0066	1.0171
49-0067	1.0008
49-0069	1.1087
49-0071	1.1204
* 49-0072	.8396
49-0073	1.0674
49-0074	.9994
49-0075	1.0318
49-0077	.9912
49-0078	.9431
49-0079	1.0610
49-0083	.5485
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49-0085	.9010
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49-0089	.9996
49-0090	.9372
49-0091	1.0714
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49-0093	1.0269
* 49-0094	1.0313
49-0095	1.0062
49-0097	1.0104
49-0098	1.0223
49-0099	.9365
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49-0101	1.0463
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49-0107	.9559
49-0110	1.0309
49-0111	.9908
49-0112	1.0546
49-0113	1.0362
49-0114	1.0468

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
49-0115	1.0287
49-0116	.9502
49-0117	.9572
49-0118	1.1418
49-0119	1.0879
49-0120	1.0199
49-0122	1.0952
49-0123	1.0494
49-0124	.9729
* 49-0125	.8853
49-0126	.9785
49-0127	.9598
50-0001	1.1107
50-0002	1.0195
50-0003	1.0415
* 50-0004	1.0195
50-0005	1.1954
50-0006	1.0335
50-0007	1.0253
50-0008	1.3585
50-0009	1.0604
50-0010	1.0410
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50-0014	1.1268
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50-0023	.9653
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50-0029	.9781
50-0030	1.1357
50-0031	.9862
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50-0033	.8840
50-0034	.9965
50-0035	1.0245
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50-0044	1.1317
50-0045	1.0441
50-0046	1.0542
50-0048	.8874
50-0049	.9732
50-0050	.9907
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50-0052	.9918
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50-0054	1.1992
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* 50-0062	1.0057
50-0064	1.1472
* 50-0065	1.0287
* 50-0066	.9093
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50-0079	1.1297
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* 50-0101	.9393
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* 50-0103	1.0976
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* 50-0123	.9525
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* 50-0125	.9458
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50-0129	1.1794
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* 50-0132	.8427
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51-0045	.9715
51-0046	1.0319
51-0047	1.0482
51-0048	.9556
51-0050	1.0377
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51-0064	.9678
51-0065	.8740
51-0066	.9660
51-0067	.7925
51-0068	.9490
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51-0071	1.0504
51-0072	.9111
51-0074	.9126
* 51-0076	.8691
51-0077	.9191
51-0080	.9263
51-0081	.9166
51-0082	1.0277
* 51-0083	1.0655
52-0001	1.0137
52-0002	1.0337
52-0003	.9958
52-0004	1.0132
52-0006	.9904
52-0007	.9357
52-0008	.9700
52-0009	1.0388
52-0010	1.0363
52-0011	.9437
52-0012	.9509
52-0013	.9672
52-0014	.9508
52-0015	1.0203
52-0016	.9242
52-0017	.9654
52-0018	.9388
52-0019	1.0385
52-0020	1.0320
52-0021	.9821
52-0022	.9360
52-0024	.9333
52-0025	.9431
* 52-0026	1.1755
52-0027	.9241
52-0028	1.0320
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52-0030	1.1346
52-0031	1.0076
52-0032	.9505
52-0033	1.0134
52-0034	.9529
52-0035	1.0190
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52-0038	.9588
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52-0040	1.0694
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52-0043	1.0847
52-0044	1.0461
52-0045	1.1138
52-0047	.8949
52-0048	1.0164
52-0049	1.1428
52-0051	1.0850
52-0053	.8767
52-0054	.9694
52-0056	1.0546
52-0057	.9162
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52-0059	.9275
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52-0062	1.0434
52-0063	1.1147
52-0064	1.1763
52-0066	1.0416
52-0067	1.0813
52-0068	.9399
52-0069	.9563
52-0070	1.1205
52-0071	.9626
52-0074	.9730
52-0075	1.0707
52-0076	1.0088
52-0077	.9257
52-0078	1.0543
52-0080	.8743

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
52-0081	1.0314	52-0107	.9697	52-0130	.9283	52-0156	1.0008	53-0007	.8614
52-0082	.9542	52-0109	.9609	52-0131	.8872	52-0157	.9933	53-0008	.9417
52-0083	1.1832	52-0110	.9649	52-0132	.9735	52-0159	.9868	53-0009	.8555
52-0084	.9344	52-0111	1.0768	52-0134	.9332	52-0160	1.2387	53-0010	1.0510
52-0087	1.1722	52-0112	.9736	52-0135	.9527	52-0161	.9112	53-0011	.9425
52-0088	1.0491	52-0113	.9708	52-0136	1.0732	* 52-0164	.8421	53-0012	1.0056
52-0089	1.1078	52-0114	.9207	52-0138	1.1964	* 52-0165	1.0478	53-0014	.9982
52-0090	.9559	52-0115	1.0426	52-0139	1.0852	52-0167	1.0179	* 53-0015	.9920
52-0091	1.0867	52-0116	.9677	52-0140	1.0897	52-0170	.9642	53-0016	.9592
52-0092	.9815	52-0117	.9431	52-0141	.9816	52-0171	.9719	* 53-0017	.8195
52-0094	1.0392	52-0118	.8846	* 52-0142	.8889	52-0173	1.0329	53-0018	.8940
52-0095	.9535	52-0119	.9907	52-0143	.8173	52-0174	1.1957	53-0019	.8849
52-0096	1.0459	* 52-0120	1.0013	52-0144	.9879	* 52-0175	.8044	* 53-0021	.9276
52-0097	1.0338	52-0121	.9766	52-0145	.9271	* 52-0176	.8882	53-0022	.8956
52-0098	1.2406	52-0122	1.0064	52-0146	.9672	* 52-0177	.9190	* 53-0023	.9233
52-0100	1.0260	52-0123	.9937	52-0148	1.0324	53-0001	.9537	* 53-0024	.8991
52-0101	.9777	52-0124	.9918	52-0149	.9334	* 53-0002	1.0987	53-0025	.9648
52-0102	1.0039	52-0125	.8745	52-0151	.9543	53-0003	.8773	53-0026	.9940
52-0103	1.0951	52-0126	.9265	52-0152	.9669	53-0004	.9370	* 53-0027	.9885
52-0104	.9224	52-0127	.9373	52-0153	.9913	53-0005	.9318	* 53-0029	.8913
* 52-0105	.9493	52-0129	.9675	52-0154	1.0184	53-0006	.9359	* 53-0031	.8425

BILLING CODE 4120-03-C

Appendix III—SMSA/NECMA Constituent Counties Areas No Longer Qualifying as SMSAS

SMSA Area and Constituent Counties

Rapid City SD:
Meade
Pennington

Areas Qualifying for Recognition as New SMSAS

Anderson SC: Anderson
Arecibo, PR:
Arecibo, Municipio
Camuy Municipio
Hatillo Municipio
Athens GA:
Clarke
Jackson
Madison
Oconee
Bellingham WA: Whatcom
Benton Harbor MI: Berrien
Bremerton WA: Kitsap
Casper WY: Natrona
Charlottesville VA:
Albemarle
Fluvanna
Greene
Charlottesville City
Chico CA: Butte
Cumberland MD–WV:
Allegany (MD)
Mineral (WV)
Danville VA:
Pittsylvania
Danville City
Florence SC: Florence
Fort Walton Beach FL: Okaloosa
Glens Falls NY:
Warren
Washington
Hagerstown MD: Washington
Hickory NC:
Alexander
Catawba
Jacksonville NC: Onslow
Joplin MO:
Jasper
Newton
Medford OR: Jackson
Newark OH: Licking
Newburgh-Middletown NY: Orange
Ocala FL: Marion
Olympia WA: Thurston
Redding CA: Shasta
Rock Hill SC: York
Salisbury-Concord NC:
Cabarrus
Rowan
Sharon PA: Mercer
Sheboygan WI: Sheboygan
State College PA: Centre
Victoria TX: Victoria
Visalia-Tulare-Porterville CA: Tulare
Wausau WI: Marathon
Yuba City CA:
Sutter
Yuba

New NECMAS

Bangor ME: Penobscot
Burlington VT: Chittenden
Portsmouth-Dover-Rochester NH-ME:
Rockingham (NH)
Strafford (NH)
York (ME)

Revised NECMA Definitions

Boston-Lowell-Brockton-Lawrence-Haverhill MA:
Essex (MA)
Middlesex (MA)
Norfolk (MA)
Suffolk (MA)
Plymouth (MA)
Hartford-New Britain-Bristol CT:
Hartford
Middlesex
Tolland
Manchester-Nashua NH: Hillsborough
Portland ME:
Cumberland
Sagadahoc
Providence-Warwick-Pawtucket RI:
Bristol
Kent
Providence
Washington

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a), and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: September 14, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 27, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27068 Filed 9-29-82; 8:45 am]

BILLING CODE 4120-03-M

federal register

Thursday
September 30, 1982

Part VI

Department of Health and Human Services

Health Care Financing Administration

Medicaid; Reductions in Payments to the States

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 433

Medicaid; Reductions in Payments to the States

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This rule amends the regulations that implemented section 2161 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). Under that provision, reductions in Federal matching payments to the States for Medicaid services were imposed for fiscal years 1982 through 1984. We are amending the regulations as a result of public comments and consultations with various representatives of the States, and to effect changes mandated by the provisions of section 137(b) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), which amended section 2161.

DATES: This rule is effective September 30, 1982. For information concerning reporting requirements in these regulations refer to section IV of the preamble below.

FOR FURTHER INFORMATION CONTACT: Charles Schreibeis (301)– 597–1702.

SUPPLEMENTARY INFORMATION:

I. Background

A. *Legislation and regulations.* Under title XIX of the Social Security Act, Medicaid is financed jointly with Federal and State funds. The Federal government shares in the cost of health care services covered under each State's Medicaid program, with the Federal contribution determined under a statutory formula (sections 1903(a) and 1905(b) of the Social Security Act) that is designed to have the Federal government pay a proportionally larger share of the program in States with lower per capita income, as compared to the national per capita income. Under section 1903(a) of the Act, the Federal government also shares in the costs of the administration of each State's Medicaid program. These payments are variously referred to as the Federal share of Medicaid payments, Federal matching funds, or Federal financial participation (FFP). For purposes of the discussion below, we refer to these amounts simply as Federal payments.

On September 30, 1981, we issued interim final regulations (46 FR 47996) to implement section 2161 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), enacted on August 13, 1981. Section 2161 added sections 1903 (s) and (t) to the Social Security Act and mandated progressive reductions in total Federal Medicaid payments to the States for fiscal years 1982 through 1984. The final regulations established a new Subpart E in Part 433 of title 42 of the Code of Federal Regulations (CFR).

Additionally, section 137(b) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), enacted on September 3, 1982, amended sections 1093 (s) and (t) of the Social Security Act. Although technical in nature, the amendments are important in several respects and are discussed below.

In summary, sections 1903 (s) and (t) of the Act, as enacted by section 2161 of Pub. L. 97–35 and as amended by section 137(b) of Pub. L. 97–248, provide that the Federal payments to which a State is entitled under Medicaid are to be reduced by three percent of each quarter's payment in fiscal year (FY) 1982, four percent in FY 83, and four and one half percent in FY 84. However, Congress stipulated that a State, under certain conditions, may be entitled to an offset against the reductions. That is, a State may lower the amount of the reduction by one percentage point for each quarter, in each of the three fiscal years, for each of the following conditions the State meets during the quarter:

- The State has in operation a qualified hospital cost review program.
- The State has an unemployment rate equal to or exceeding 150 percent of the national average.
- The State demonstrates anti-fraud and abuse recoveries of Medicaid funds, in the immediately preceding quarter, equal to at least one percent of the Federal payments for that quarter. With respect to FY 82 only, States may qualify for this decrease by combining recoveries from anti-fraud and abuse and third party liability efforts during the applicable quarter.

The legislation further provides that a State will be entitled to a dollar for dollar offset in the reductions if total Federal Medicaid funding of the State's program, for each fiscal year 1982 through 1984, falls below a specified target amount. However, the amount recovered by a State in this manner may not exceed the total amount of the original reduction for the fiscal year. Congress established the target amount for FY 82 as equal to 109 percent of each State's estimate of the amount of Federal funding it would be paid for FY 81, and stipulated that the State estimates to be used would be those that were submitted before April 1, 1981. For FY 83 and FY 84, the target amounts are equal to the FY 82 target amount increased or decreased by the same percentage as the increase or decrease in the index of the medical care expenditure component of the Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics.

In additon to the interim final rules issued on September 30, 1981, we issued a notice of proposed rulemaking (46 FR 48006) concerning the offset based on the combination of recoveries from anti-fraud and abuse activities and from liable third parties (42 CFR 433.215). For purposes of the offset during FY 82, we proposed, with certain exceptions, to prohibit the States from including in third party liability recoveries savings realized in Medicaid costs by transferring to Medicare the responsibility for paying the claims of persons dually eligible for Medicare and Medicaid. The proposed exception to this rule was that the States would be permitted to include amounts recovered from Medicare in cases where dual eligibility is not known until after the Medicaid claim is paid.

B. *Implementation of section 2161.* The legislative history of section 2161 indicates that Congress attempted to soften the fiscal effects of the reductions for States that have high unemployment or are undertaking extra efforts to control rising health care expenditures by containing hospital costs or combating fraud and abuse. (For example, see the Report of the House Committee on the Budget, H.R. Rep. No. 97–158, Vol. II, 97th Cong., 1st Sess. 288 (1981).)

Congress reasoned that if a State has taken extra cost containment or anti-fraud and abuse measures beyond those embodied in sound management practices, then the Federal share of that State's Medicaid expenditures already had effectively been reduced. Therefore, Congress concluded, the States that are able to demonstrate savings based on these extra efforts should incur less of a reduction in Federal payments than States that have not taken these initiatives.

In drafting the implementing regulations, we have followed the legislative intent. For the most part, the legislation is specific and permits little discretion in the regulations. However, in those areas of policy where regulatory discretion was allowed, we established policies that encourage and reward initiatives by States that exceed routine requirements or administrative actions. We applied this approach in structuring the definition of recoveries and the fraud and abuse and third party liability sections of the regulations. For

example, aggressive action by a State to identify and discourage fraudulent and abusive practices through methods such as the application of specially designed claims processing screens intended to detect fraud and abuse will enable the State to qualify more easily for the anti-fraud and abuse offset.

II. Changes Required by Pub. L. (97-248)

Several of the amendments contained in section 137(b) of Pub. L. 97-248 have an impact on the reductions in Medicaid payments and require changes in the regulations. The amendments provide a specific legislative basis for—

- The inclusion in diverted funds of imputed savings based on the suspension or termination of providers of services from participation in the Medicaid program.
- An exception from the reductions and the target amount calculations for funds provided to States for health care provided through Indian Health Service facilities and for State Medicaid fraud control units.
- A change from the calendar year as a basis of comparison in determining the effect of a hospital cost review program on inpatient hospital costs to a 12-month period not necessarily coincident with the calendar year.
- The use of the Federal medical assistance percentage (FMAP) that was in effect for FY 81 for the target amount calculations for fiscal years 1982-1984.
- The carry-over from one quarter to the next of the amount by which a State exceeds the required level of anti-fraud and abuse recoveries necessary to qualify for the anti-fraud and abuse offset.

Following is a summary of the subsections of section 137(b) of Pub. L. 97-248 that require changes in the regulations:

Section 137(b)	42 CFR Part 433, Subpart E
15(A)	§ 433.205(c)(1).
(B)	§ 433.205(c).
(C)	§ 433.201.
(D)(ii)	§ 433.209.
(D)(iii)	§ 433.209.
(F)	§ 433.213.
16(A)	§ 433.217(c).
(B)	§ 433.217(b)(2).
(C)	§ 433.217(b)(3).
(D)	§ 433.217(b)(2).
(E)	§ 433.217(b).
27	§ 433.213(c).

III. Public Comments

A comment period was provided for both the proposed and final rules issued on September 30, 1981. We received a total of 34 sets of comments on various aspects of the regulations from State and local governments, two providers of health care services, several health related associations, a union and one individual. The vast majority of the comments were from the States and concerned the proposed rule on the circumstances under which recoveries from Medicare may be counted in third party liability recoveries during FY 82. Commenters also raised questions about the definitions of diverted funds and recoveries, as those terms relate to anti-fraud and abuse activities; the qualifications for hospital cost review programs; the method of computing anti-fraud and abuse recoveries, and the extent to which those recoveries may be carried forward from one quarter to the next for purposes of determining whether a State qualifies for an offset; and technical aspects of the computation of target amounts. A summary of the comments and our responses follows.

A. *Medicare as a liable third party (§§ 433.203, 433.213 and 433.215).* The current practices regarding recoveries from liable third parties are as follows. States reduce their Medicaid costs by predetermining obligations of liable third parties and offsetting the amounts paid on provider invoices (prepayment screens), or by retroactively identifying the obligations and collecting the appropriate amounts from third party payers. In the former case, the amounts involved are called cost avoidance; in the latter, they are commonly referred to as "pay and chase" collections. Both are generally considered recoveries from liable third parties.

If a Medicaid recipient is also eligible for Medicare, a claim from a provider is referred, either on a prepayment or post-payment basis, to the Medicare program. In these circumstances, Medicaid is responsible only for any deductible or coinsurance amount payable on behalf of the recipient. Being the payer of last resort, a Medicaid agency routinely transfers claims for services in these situations to the Medicare program.

In the proposed regulations (§ 433.215), we generally prohibited the inclusion of recoveries from Medicare in third party totals. However, we provided an exception for circumstances in which a State has paid a Medicaid claim, but subsequently discovers that the individual was also eligible for Medicare, and recovers the payment after referring the claim to Medicare. We also required that the recoveries must be auditable and have been reported to HCFA.

Sixteen sets of comments were received in response to the issues addressed in the proposed rule. The commenters objected to the proposal essentially in four areas:

Comment 1—Inconsistency with the statute and regulations. Many commenters maintained that the proposal violates sections 1902(a)(25) and 1903(s)(5)(A) of the Act (as enacted by section 2161 of Pub. L. 97-35), which address third party liability recoveries. They believe that, for purposes of including FY 82 third party liability recoveries in the offset calculation, section 1903(s)(5) defines third party recoveries as the total amount recovered or diverted on the basis of the third party activities that are mandated by section 1902(a)(25) of the Act. The latter section provides that State Medicaid agencies are to take all reasonable measures to ascertain the legal liability of third parties and to seek reimbursement to the extent of the liability. The commenters believe that there is nothing in these provisions or in their legislative history that justifies the exclusion of recoveries from Medicare to any extent in the offset calculation. They further believe that Congress has consistently demonstrated its understanding of the ways in which Medicare and Medicaid interrelate. Therefore, the commenters reason, because Congress did not explicitly exclude or limit Medicare as a source of third party liability recoveries for purposes of the FY 82 offset, the presumption must be in favor of treating Medicare as simply another third party payer.

Similarly, several commenters emphasized their belief that the definitions of third party and third party liability contained in the proposed rule are inconsistent with definitions existing elsewhere in Medicaid regulations. They point to the Medicaid quality control regulations at 42 CFR 431.800(b) that establish State plan requirements for monitoring third party liability activities, and to the definition located at 42 CFR 433.136 that defines third party as "any individual, entity or program that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant * * *." The commenters argue that HCFA has steadfastly adhered to a policy that not only includes Medicare as a source of third party recoveries, but requires it. Therefore, they believe, the States are faced with incompatible instructions

that, on the one hand, require them to report recoveries from Medicare but, on the other, unjustifiably limit the inclusion of these recoveries for purposes of section 2161.

Response—The primary objective of Congress in enacting section 2161 was to reduce Federal expenditures. An additional objective, as discussed earlier, was to encourage additional efforts by the States in fraud and abuse detection. We believe that the same purpose underlies the provision concerning third party collections during FY 82. We realize that recoveries from Medicare are routinely included in third party totals under existing requirements in the statute and regulations. However, the net effect of including all recoveries from Medicare in the FY 82 third party totals under section 1903(s) of the Act would be to increase the number of States that would qualify for the offset against the section 1903(s) reductions. It would be inconsistent with congressional objectives to permit States to take credit for transferring all claims involving dual eligibility to the totally Federally funded Medicare program, and thereby decrease the intended effect of the reductions in Federal Medicaid payments on overall Federal spending. (See the Report of the House Committee on the Budget, H.R. Rep. No. 97–158, Vol. II, 97th Cong., 1st Sess. 287 (1981); and the Conference Report, H.R. Rep. No. 97–208, Book 2, 97th Cong., 1st Sess. 959 (1981)).

Furthermore, as explained below in our responses to related comments on this issue, information concerning possible dual Medicare-Medicaid eligibility is routinely accessible to the States. Therefore, to the extent that a State knows or should have known of dual eligibility, recoveries from Medicare may not be included in FY 82 third party totals for purposes of determining offsets under section 2161.

Comment 2—Advance knowledge of dual entitlement. In the proposed rule, we stated that we believe it was the intent of Congress, in enacting the third party provision in section 1903(s)(2)(C), to encourage additional efforts by the States against liable third parties. We stated that the States generally know beforehand which recipients are eligible for both Medicare and Medicaid and that, therefore, we intended to limit recoveries from Medicare to situations in which a State is obligated to make a special effort to determine Medicare entitlement after it has paid a Medicaid claim. Commenters disputed our rationale concerning advance knowledge of dual eligibility and questioned the description of the exception in the regulations.

Commenters argued that State agencies cannot always anticipate which health care items or services will be covered by Medicare (especially Part B, Supplementary Medical Insurance, which covers physicians' and other medical services and supplies) and, in fact, do not know the answer until the Part B billing process is complete. Therefore, even if a State knows that a recipient is dually eligible for both Medicare and Medicaid, additional effort is often necessary to determine the liability of Medicare.

Concerning the exception, the commenters asserted that many situations require State agencies to pay for a recipient's care notwithstanding the fact that an agency knows or suspects the recipient to be eligible for Medicare. Therefore, the commenters maintain, to limit the exception to situations in which the State agency did not know about the dual eligibility ignores the practical reality of the relationship between Medicare and Medicaid.

These commenters urged us to amend the regulations to include *all* recoveries from Medicare in third party totals or, alternatively, to expand the exception to cover *all* cases in which Medicaid pays first and later recovers from Medicare.

Response—We have determined that we must adhere to the position described in the proposed rule. As explained below, dually entitled individuals are routinely identified and claims are routinely referred to Medicare for payment. The additional effort normally required on the part of the State to detect liable third parties and to seek recoveries is not required in these circumstances. We believe that it was the intent of Congress, in providing for the third party liability offset provision, to encourage additional efforts by the States against liable third parties other than the Medicare program.

We note, however, that two categories of collections from Medicare may be included in the third party recovery totals. The first category covers processing activities beyond the control of the State that result in a Medicare covered claim being paid by Medicaid. The second category covers situations in which a State pays a claim under the Medicaid program, and Medicare eligibility is in question but is later determined to be valid. We emphasize that these exceptions distinguish between those cases in which there is a real question of *Medicare eligibility*, and those in which the State must merely determine the extent of Medicare coverage. Hence, the situations mentioned by commenters that involve decisions about the extent of Part B coverage, for example, do not fall within the exception.

Concerning the basic question of whether States generally know beforehand of dual eligibility, we reiterate the following:

- HCFA makes available to all States (with or without buy-in or similar programs under sections 1843, 1902(a)(10) and 1903(a)(1) of the Act in which the States pay Medicare premiums for individuals) certain compilations of information (for example, the Carrier Alphabetic State File (CASF), the Health Insurance Beneficiary State Tape (BEST), and the Beneficiary and Earnings Data Exchange System (BENDEX)) that permit the States to determine whether an individual is eligible for both Medicare and Medicaid.
- If individuals are receiving Supplemental Security Income (SSI) under title XVI of the Social Security Act. they may also be eligible for Medicare. In this case, the Social Security Administration (SSA) makes SSI and Medicare entitlement information available to the States (Supplemental Security Income/State Data Exchange System (SDX)).
- Characteristics of Medicaid applicants such as age, the existence of a long-term disability, or an impairment of a certain nature such as end stage renal disease, help the States to identify individuals eligible for Medicare.

Comment 3—"Pay and chase" collection systems. Some commenters took the view that the exclusion of recoveries from Medicare from third party totals penalizes States that have developed effective processes, called cost avoidance systems, to ensure that third party liabilities, including Medicare, are fully recovered before a final Medicaid payment is made. States that have not undertaken these measures must employ a system in which liable third parties are not approached until after a Medicaid claim is paid. The latter type systems are commonly referred to as "pay and chase" and, the commenters believe, are not as cost effective as cost avoidance systems. The commenters allege, therefore, that "pay and chase" States will, in effect, be rewarded for being less effective because they will be able to include Medicare recoveries as a result of meeting the "additional effort" test implicit in section 2161.

Response—It is not our intent to penalize any State regardless of the types of claims processing systems employed. We believe that our policies are consistent with the intent of Congress to encourage additional efforts on the part of States to pursue liable third parties other than Medicare. In our view, the important aspect of the policy concerning recoveries from Medicare is that the recoveries may not be included if the State should have known of dual eligibility before a Medicaid claim is paid. If the claim of a dually eligible individual is paid because of circumstances beyond a State's control, or if Medicare eligibility is established after a claim is paid, recoveries from Medicare may be included. This is so regardless of whether a State has a mechanized or automated claims processing system or uses a "pay and chase" system.

Comment 4—Proposed definitions of third party and third party liability. Commenters believe that the definitions of third party and third party liability contained in the proposed regulations (§ 433.203) used terms that must be interpreted to include Medicare as a source of third party recoveries for purposes of section 1903(s). If this is so, the commenters continue, the definitions are inconsistent with § 433.215(c), which provides for the exclusion of Medicare. The proposed rule defined third party as "any individual, entity or program * * *" that might be liable. Third party liability was defined as "payment resources available from both private and public health insurance." Commenters assert that the use of the terms "program" and "public health insurance" necessarily include the Medicare program.

Response—We explicitly limited Medicare recoveries in § 433.215(c) of the interim final regulations. Therefore, we disagree that the regulations are unclear on this point. By way of explanation, however, we intend that third party liability recoveries from programs that provide health care to active duty or retired military personnel and their dependents may be included. We distinguish between these programs and Medicare on the basis that knowledge by the States of dual Medicare-Medicaid eligibility is facilitated, as explained above, by the coordinated exchange of data between HCFA and SSA on the one hand and the States on the other. Generally, there is not a comparable source of information available to the States concerning persons eligible for both Medicaid and benefits based on military service.

B. *Definition of diverted funds (§ 433.203).* For purposes of the anti-fraud and abuse offset, the statute (section 1903(s)(2)(C)) defines recoveries as the total amount that the "State demonstrates to the Secretary that it has recovered or diverted * * *."

In the definition of diverted funds in the interim final regulations (§ 433.203), and in the preamble to the regulations, we distinguished between routine monitoring screens in automated or mechanized claims systems and those put in place by the States as a result of surveillance and utilization review program actions or fraud control unit actions. We stated that amounts saved by application of the first category of screening procedures are not considered to be "diverted funds," while amounts saved by application of the second category are.

We stated in the preamble to the regulations that examples of qualified screens are those that relate to one time only procedures (for example, hysterectomies), inappropriate services for provider specialty, and inappropriate places of service. Excluded from the definition were costs diverted as a result of—

- Routine audits or reviews of cost reports;
- Detecting duplicate payments or applying normal utilization claims processing screens;
- Denying claims because of prior authorization or general application of mechanized prepayment screens;
- Correcting occurrences of provider overpayments resulting from State agency or fiscal agent administrative error;
- Convicting or suspending providers from Medicaid because of fraud or abusive practices;
- Restricting recipients to receive services from certain providers (recipient lock-in programs).

Comment 1—Convicted or suspended providers. Many commenters objected to our excluding from the definition of diverted funds those estimated savings to a State's Medicaid program that might be imputed to the exclusion or suspension of a provider from participation in Medicaid because of fraud or abusive practices. The commenters asserted that future savings do result from these activities because they help to remove from participation in the program the minority of providers whose illicit actions account for a major portion of misspent Medicaid funds. The commenters maintained that an acceptable method of calculating the savings could be developed for inclusion in the regulations.

Response—Under the authority of section 137(b)(15)(F) of Pub. L. 97-248, we are revising the definition. As provided by Pub. L. 97-248, we will count these imputed savings for the period of the exclusion, suspension or termination (see sections 1128, 1160, 1862 (d) and (e), 1866(b)(2), 1902(a)(39) or 1903(i)(2) of the Act), or for a period of one year from the effective date of the exclusion, suspension or termination, whichever is shorter. The imputed value to be included in each quarter's fraud and abuse totals will be prorated based on a projected amount of fraudulent or abusive claims, as determined by a reasonable statistical sample of the affected provider's annual Medicaid claims for the most recent year. We will not count the total amount of claims properly submitted by these providers because their patients may seek to receive services from other providers. For example, assume that a State suspends for six months a provider whose annual Medicaid claims total $100,000, as indicated by a sample. The State determines that only $80,000 of the $100,000 in payments to the provider were proper. The $20,000 in improper payments must be prorated over four quarters (one year). In this case, therefore, the State may include $5,000 in its anti-fraud and abuse totals in each of the two quarters during which the provider is suspended. If the period of suspension does not coincide with a fiscal quarter, the improper payments must be prorated accordingly. This means that a suspension period for five months in the above example would result in $5,000 in imputed savings in one quarter (three months) and $3,332 in the next quarter (two months). Adopting the figure in the above example for a provider suspended for a period of more than one year would result in the State having imputed savings of $5,000 in each quarter for one year only (for a total of $20,000).

In order to be included, the imputed savings must be reported quarterly and must be adequately documented so as to have a clearly defined audit trail for review.

Comment 2—Lock-in programs. Strong support was also indicated for inclusion in anti-fraud and abuse totals of savings imputed to recipient lock-in programs. In effect, these programs restrict certain recipients to receive services from certain providers and thereby curtail, for instance, the tendency of those recipients to visit multiple providers seeking advice about the same ailment. Commenters maintained that these programs result in substantial savings and constitute an

important aspect of abuse detection activities.

Response We have decided to accept these comments. Imputed savings from lock-in programs will be calculated in the same manner as savings attributable to the exclusion, suspension or termination of a provider. The savings will be the difference between the total claims for the recipient on an annual basis and the total of those claims determined by the State to be proper. However, the amount derived from this calculation must be—(1) Prorated and reported for the period during which the recipient is restricted to a certain provider, but not to exceed one year (four quarters), beginning with the quarter after the quarter in which the restriction is effective; (2) based on programs that are in compliance with the procedures for lock-in programs that are described in HCFA's regulations at 42 CFR 431.54(e); (3) based on restriction of recipients, on an individual basis, to specific providers; and (4) adequately documented. We will not count imputed savings based on lock-in programs that are directed at classes of recipients.

Comment 3—Prepayment screens. Fifteen commenters expressed the view that the interpretation given to the definition of diverted funds in the preamble of the interim final rule was too narrow concerning the program savings that can be realized by the application of prepayment screens. As indicated above, the interim final regulations defined diverted funds to mean amounts saved as a result of applying, (1) prepayment screens to claims submitted by a provider identified as possibly engaging in fraudulent or abusive practices; or (2) special mechanical or automated prepayment screens that are designed to detect fraud and abuse to claims from all providers or a designated category of providers. The commenters believe that the definition should be expanded to include screens for duplicate claims, frequency and quality of services limitations screens, and suspended provider screens. Furthermore, they insisted that when fraudulent or abusive practices are uncovered as part of a routine audit, any resulting savings should be considered as diverted funds.

Response—After carefully reviewing these comments and the recommendations of a Medicaid Technical Advisory Group, we have determined that the interpretation of the definition should be expanded to include screens designed to detect the following:

- Fragmented claims—Claims for multiple procedures or services that should be billed singly or in combination (for example, split prescriptions or multiple claims resulting from one surgical procedure instead of one comprehensive claim).
- Compatability of services—Inappropriate combinations of medical services or procedures, or of services, procedures or diagnoses with a patient's age, sex or other characteristics.
- Medical necessity of services.
- Overutilization of services and program benefits.
- False billings.

However, savings resulting from the following types of screens may not be included in anti-fraud and abuse diverted funds:

- Screens that review the qualifications of providers or recipients to participate in the program.
- Covered services screens that identify claims for services not covered by the program.
- Reimbursement screens that compare charges to maximum reimbursement levels and make appropriate adjustments.
- Third party liability screens designed to identify parties that are liable to pay for a claim before Medicaid.
- Data completeness and validity screens.

The first category of screens represents an additional effort to detect fraud or abuse while the second category is illustrative of routine monitoring screens that are required by good business practices. Furthermore, under sections 1903 (a) and (r) of the Act, HCFA approves the use of Medicaid Management Information Systems by the States and requires that the second category of screens be part of each State's basic system. Currently, 37 States have approved systems in operation, and nine others soon will have systems in use.

We note, however, that before amounts may be included in the total of costs diverted as a result of the application of screens, claims must actually be denied or partially denied. Costs involved in claims that are simply rejected by the processing system may not be included. This is because many prepayment screens result in rejections of claims because of provider clerical errors, and because savings are not achieved until claims identified for further processing are actually processed and denied.

Duplicate claims and frequency or quality of services limitation screens are part of the routine processing system and are, in fact, coverage determinations. None of these types of screens are considered to be special anti-fraud and abuse screens. Duplicate payment screens particularly are a standard claims processing technique and constitute good business practice. Suspended provider screens are also part of the routine claims processing system.

Regarding routine audits, if fraud or abuse is uncovered as a result of these measures and the State initiates a Medicare/Medicaid Abuse Report (HCFA–51) to track the case as a full scale investigation, actual recoveries may be included by the State in its calculation of total anti-fraud and abuse recoveries. However, we believe it would be inappropriate to allow the States to estimate savings based on routine audits, and then to include the estimated savings in diverted funds totals. This would result in the savings being imputed to fraud and abuse detection activities. Here again we draw a distinction between those extra efforts that are designed to detect or act upon fraudulent or abusive practices and those that are good business practices and, therefore, routine in nature.

C. *Definition of recoveries (§ 433.203).* In the definition of recoveries in the interim final regulations, we stated that the term means Medicaid funds which were paid to a provider in excess of what the provider is entitled to, and which have been collected or diverted by the State. In addition, we stated that amounts of fines, penalties, and unexecuted judgments may not be included in the calculations concerning funds recovered through anti-fraud and abuse activities.

Comment 1—Funds diverted or collected. Several commenters suggested that HCFA should revise the definition of recoveries to clarify the difference between funds diverted and funds that have been paid in error and then recouped through collections.

Response—We agree that the definition was ambiguous and have rewritten it to state that recoveries, for purposes of anti-fraud and abuse totals, may include either diverted funds (also defined in § 433.203) or amounts collected.

Comment 2—Fines and penalties. Two commenters urged that HCFA's position be changed regarding fines and penalties. They believe that all funds recovered by a State in connection with program activities, regardless of the source, should be included because Medicaid program expenditures are thereby reduced.

Response—We disagree with this comment. Fines and penalties are amounts that accrue to the general

revenues of a State rather than to the State's specific programs. Therefore, the amounts thus recovered cannot be construed as helping to reduce Federal expenditures. We note, however, that amounts recovered from executed judgments that represent a recovery of Medicaid funds, and that are reported to HCFA, may be included in anti-fraud and abuse recoveries.

D. *Computation of anti-fraud and abuse recoveries (§ 433.213).* In the interim final regulations (§ 433.213(a)), we stated that, to qualify for the anti-fraud and abuse offset, a State's recoveries for a quarter must equal or exceed one percent of the total Federal payment for that quarter. In addition, we stated in § 433.213(c) of the interim final regulations that amounts of anti-fraud and abuse recoveries in a quarter that exceed one percent of the appropriate Federal payment may be carried forward for one quarter only.

Comment 1—Total recoveries. Eight commenters raised the question of whether the language of §433.213(a) requires a comparison between the total *State and Federal share* of anti-fraud and abuse recoveries and the Federal payment to the State in a quarter, or only between the *Federal share* of recoveries and the Federal payment. The commenters professed belief that the former is the correct interpretation because section 1903(s)(2)(C) of the Act, as enacted by section 2161, states that the *total* amount of the State's recoveries must equal or exceed one-percent of the applicable *Federal* payment, and that clarification is necessary to calculate accurately the anti-fraud and abuse offset. For example, if the quarterly Federal payment to a State is $100,000,000 and total anti-fraud and abuse collections equal $1,200,000 with the Federal share of the collections being $800,000, under the State's interpretation, the State would qualify for the offset (that is, $1,200,000 divided by $100,000,000 equals 1.2 percent). On the other hand, if only the Federal share of the total collections was used in the computation, the State would not qualify (that is, $800,000 divided by $100,000,000 equals .8 percent).

Response—Initially, we interpreted section 1903(s)(2)(C) of the Act to the effect that only the Federal share of recoveries should be compared to the Federal payment. After reviewing the statute and supporting committee reports, we agree that the commenters' interpretation of the statute is correct. Therefore, we amended the regulations to show that the basis for comparison is a State's total Medicaid-related anti-fraud and abuse recoveries including both the Federal and State share.

Comment 2—Recoveries from all State programs. Commenters also maintained that the total amount of a State's third party and anti-fraud and abuse recoveries should include recoveries involving State programs other than Medicaid but related to Medicaid (for example, general assistance medical programs).

Response—Section 1903(s) of the Act, as enacted by section 2161 of Pub. L. 97–35 is an initiative by Congress to contain Medicaid costs and to encourage the States to undertake greater efforts to combat fraud and abuse in that program. Therefore, we believe that Congress intended that only Medicaid recoveries could be used to qualify a State for the anti-fraud and abuse offset.

Comment 3—Carry forward. Disagreement with HCFA's policy that anti-fraud and abuse recoveries may be carried forward for one quarter only was registered by five commenters. They contend that HCFA's interpretation of the statute is incorrect, and that the excess of each quarter's anti-fraud and abuse recoveries may be carried forward cumulatively, for purposes of calculating whether the one percent threshold is met, until the excess is exhausted.

Response—In section 137(b)(27) of Pub. L. 97–248, Congress amended section 1903(s)(5)(B) of the Act (originally enacted by section 2161 of Pub. L. 97–35) to provide that the excess for a State's anti-fraud and abuse recoveries over the amount required to qualify the State for the anti-fraud and abuse offset for that quarter is to be carried forward to the following quarter "or quarters * * *" Therefore, we have amended § 433.213 to that effect.

E. *Hospital cost review programs (§ 433.209).* Section 1903(s)(3) of the Act, as enacted by section 2161 of Pub. L. 97–35, provided specific criteria that hospital cost review programs must meet in order to qualify a State for the offset under that provision. The criteria are as follows:

- The program must have been established by statute, and must have been in effect on July 1, 1981, and at the beginning of the quarter in which offset against the reduction is granted.
- The program must be operated directly by the State.
- The program must apply to substantially all non-Federal acute care hospitals.
- Under the program, the State must review all non-Medicare revenues or expenses for inpatient hospital services, or at least 75 percent of all revenues or expenses for inpatient hospital services, including those under Medicare.
- The State must make satisfactory assurances to the Secretary that the program provides substantially equitable treatment to all payers, hospital employes and hospital patients.
- The State's rate of increase in aggregate inpatient hospital costs per capita or per admission on a calendar year basis must be at least two percentage points lower than the rate of increase in all States without qualifying programs. Based on the language of section 1903(s)(3)(D) of the Act, as originally enacted in section 2161 of Pub. L. 97–35, the interim final regulations provided that the period of comparison would be the most recent calendar year or, at the State's option, the two or three calendar year period ending at least nine months before the quarter covered by the Federal payment. However, as noted above, section 137(b)(15)(D) of Pub. L. 97–248 amended section 1903(s)(3)(D) by deleting the reference to a "calendar year" and replacing it with a reference to "the most recent year which shall consist of a 12-month period to be determined by the Secretary. * * *" This change will allow HCFA to use in this calculation American Hospital Association data on annual hospital inpatient costs that correspond, not to the calendar year, but to a year ending on September 30.

Comment 1—Effective date of the program. One commenter questioned whether a hospital cost review program merely had to be in existence on July 1, 1981 or whether the program had to meet all of the criteria on that date.

Response—We stated in the preamble to the interim final regulations that we will consider a hospital cost review program to have been "in effect" on July 1, 1981 if, on that date, rules or regulations for the conduct of the program had been issued and were enforceable.

We believe that Congress intended to require that a program meet the necessary criteria on July 1, 1981 because, in any practical sense, the alternative would be to permit the State to perfect their programs without any time limitation. If this were the case, it would have been unnecessary for Congress to prescribe an effective date.

Comment 2—Determination of State qualification. Several commenters requested clarification of HCFA's procedures to determine whether a State

meets the qualifications for the hospital cost review program offset.

Response—If a State believes that its hospital cost review program qualifies for the offset, it may submit notification to HCFA specifying how and when the program met the criteria. HCFA will review the information and notify the State of its decision. If the State disagrees with HCFA's assessment, it may appeal the matter to the Department's Grant Appeals Board under 45 CFR Part 16 in conjunction with an appeal of a determination by HCFA of allowable funding on a grant award. If HCFA denies the offset because the rate of increase in hospital inpatient costs in the State is too great, as determined by the application of American Hospital Association (AHA) data, the State may submit other data to HCFA for consideration.

F. *Target amounts (§ 433.217).* As discussed earlier, section 1903(t) of the Act, as enacted by section 2161 of Pub. L. 97–35, contains provisions that entitled the States to an offset against reduced Federal payments if certain targeted levels of Medicaid costs are achieved. Section 1903(t) provides for establishment of target amounts of Federal expenditures in each State's Medicaid program for fiscal years 1982–1984. A State is entitled to a dollar-for-dollar offset against the reductions under section 1903(s) if the total Federal payments required by a State for a fiscal year fall below the projected target amount. However, each year's offset applies only up to the total of the applicable reduction imposed by section 1903(s).

We stipulated in the interim final regulations that the calculation of the target amounts may not take into account: (1) Interest paid by a State under section 1903(d)(5) on disallowances of State claims; (2) reductions in payments under section 1903(s), as enacted by section 2161; (3) supplementary payments received by a State for spending less than the target in the previous year; or (4) adjustments for claims relating to expenditures before October 1, 1980.

Under sections 1101(a)(8) and 1905(b) of the Act, the percentage of the Federal share of each State's Medicaid expenditures (Federal Medical Assistance Percentage (FMAP)) is recalculated every two years according to a specified formula. A recalculation of the FMAP occurred in fiscal year 1982 and another is scheduled for fiscal year 1984. In recognition of this, Congress provided in section 1903(t)(3), as amended by section 137(b)(16)(E) of Pub. L. 97–248, that the FMAP rate that was in effect for fiscal year 1981 is to be used in computing Federal expenditures for fiscal year 1982–84 to determine appropriate supplemental payments under the target amount provisions. The Conference Report for Pub. L. 97–35 (H.R. Rep. No. 97–208, Book 2, 97th Cong., 1st Sess. (1981)) pointed out (p. 960) that section 1903(t)(3) was intended to avoid rewarding a State simply because of a change in the share of its expenditures paid by the Federal government.

At the end of the fiscal year, before the issuance of the initial award for the first quarter of the next year, the State's total expenditures for the fiscal year will be estimated by HCFA, using the applicable fiscal year 1981 FMAP rate, based on the available actual expenditure data and the State's budget estimate. To the extent that the Federal share of the State's total estimated expenditures is under the target amount and section 1903(s) reductions have not been offset, the State is entitled to a supplemental adjustment. For example, if we use $3,600,000 as the State's estimated Federal share for fiscal year 1982, a target amount of $3,650,000 and $36,000 as reductions that have not been offset, we have the following calculation:

Target amount—fiscal year 1982	$3,650,000
Estimated Federal share	3,600,000
Under target amount	50,000
Reductions not offset	36,000
Less amount used as supplemental award adjustment	36,000

Because $36,000 is the lower of the two amounts that are compared (the amount by which the Federal share of the State's expenditures are under its target amount, and the amount of reductions not offset), this would be the supplemental figure awarded to the State in this example. Upon determination of the final expenditure amount for the fiscal year, HCFA will make an adjustment in the appropriate grant award, as described above.

Comment 1—Changes in a State's Federal share. Several commenters pointed out that if a State receives increased Federal payments as a result of a recalculation under the section 1905(b) formula, the ability of the State to meet its target amount would be adversely affected because the target amount would increase in proportion to the increase in Federal payments. The reverse effect would be true for States whose rate of Federal payments has dropped.

Response—Congress specifically provided in section 137(b)(16)(E) of Pub. L. 97–248, which amended section 1903(t)(3) of the Act, that the calculations of the Federal share of expenditures for FY 82–84 are to be made using the FMAP in effect for FY 81. We have amended the regulations accordingly.

Comment 2—Actual versus projected expenditures. Commenters believe that the target amounts should be based on actual expenditures rather than on projected expenditures.

Response—We are unable to act upon this comment because, once again, the statute provides specific direction. Section 1903(t)(1)(A) of the Act clearly calls for target amounts to be based on the last *estimate* of a State's Federal share of Medicaid expenditures received by HCFA before April 1, 1981.

Comment 3—Cash flow. Commenters objected to an annual computation of the target amount offset. They suggested that cash flow problems encountered by the States would be alleviated if the dollar-for-dollar offset was available to the States on a quarterly basis.

Response—In section 1903(t)(2) of the Act, Congress provided that the amount of Federal payments to which a State is entitled for the *first quarter of a fiscal year* is to be supplemented by the amount by which the Federal share of expenditures under the State's plan for the *previous fiscal year* is under the target amount for that fiscal year. Because of the specificity contained in the statute, we are unable to implement a different approach in the regulations.

Comment 4—Indian Health Service Funds. Two commenters requested clarification concerning the effect of section 2161 on Federal payments for Indian Health Service (IHS) facilities under section 1911 of the Act. The commenters wanted to know whether the progressive reductions in Federal payments would be applied to Federal payments for IHS facilities, and whether these payments would be included in calculations of a State's target rates.

Response—Although Congress did not specifically deal with this question in section 2161 of Pub. L. 97–35, it provided in subsections (15)(B) and (16)(A) of section 137(b) of Pub. L. 97–248 that the reductions in Medicaid payments and the target amount provision do not apply to Federal payments for health services provided through IHS facilities. (See also section 118 of Pub. L. 97–92, as extended by Pub. L. 97–161.) Therefore, we are amending §§ 433.205 and 433.217 to that effect.

IV. Summary of Changes in the Regulations

To summarize, as a result of public comments, policy decisions, and changes to the law contained in section

137(b) of Pub. L. 97–248, we are making the following changes in the regulations:

- Definitions of third party and third party liability are being added to § 433.203, and § 433.215 is being added to describe the conditions under which recoveries from Medicare may be included in third party liability totals during FY 82, for purposes of the combined anti-fraud and abuse and third party liability offset.
- The definition of diverted funds in § 433.203 is being changed to include imputed savings based on the exclusion, suspension or termination of providers and based on lock-in programs.
- Sections 433.205 and 433.217 are being revised to state that the reductions in Medicaid payments and the target amount provisions do not apply to Federal payments for health services provided by IHS facilities or to payments to States for State Medicaid fraud control units.
- Section 433.213 is being changed to clarify that calculations of anti-fraud and abuse recoveries include both the Federal and State share of Medicaid related recoveries, and to state that the amount by which a State exceeds the level of anti-fraud and abuse recoveries required to qualify for the anti-fraud and abuse offset may be carried forward to the next quarter until it is exhausted.
- In § 433.209, the reference to the calendar year period of comparison used by HCFA to determine the annual rate of increase in hospital inpatient costs in a State with a hospital cost review program is being removed.

In addition, we are making technical conforming changes made necessary by section 137(b) of Pub. L. 97–248 as follows:

- We are amending § 433.201(b) to clarify that the reductions apply only to the District of Columbia and to the States with Medicaid programs "in operation" as of July 1, 1981. (See section 137(b)(15)(C) of Pub. L. 97–248.)
- Section 433.205(c)(1) is being amended to state that payments to a State for expenditures made before FY 82 are not subject to the reductions in Medicaid payments. As originally enacted, section 1903(s)(1)(A) of the Act provided that expenditures prior to FY 81 were not affected. (See section 137(b)(15)(A) of Pub. L. 97–248.)
- The language of § 433.217(b) is being amended to clarify that adjustments to target amount calculations are to be based on changes, which occur during the Federal fiscal year (October 1–September 30), in the medical care index expenditure category of the Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics. (See sec. 137(b)(16)(D) of Pub. L. 97–248.)

V. Reporting Requirements

Sections 433.209, 433.213 and 433.215 contain collection of information requirements. The public is not required to comply with these collection of information requirements until the Office of Management and Budget approves these requirements under section 3507 of the Paperwork Reduction Act of 1980. A notice will be published in the **Federal Register** when approval is obtained.

VI. Impact Analyses

A. *Executive Order 12291.* We have determined, in accordance with section 1(b) of E. O. 12291, that these final regulations do not constitute a major rule. At this time, we are unable to project the cost effect of the decisions to include in diverted funds imputed savings based on lock-in programs and suspension/termination of providers, and to include in the fraud and abuse offset calculation the Federal share of a State's fraud and abuse recoveries. However, we estimate that approximately one quarter of the States will not qualify for the FY 82 offset based on a combination of anti-fraud and abuse and third party liability recoveries because of the decision to limit the extent to which recoveries from Medicare may be included in third party totals. Federal payments that may be saved as a result of this decision amount to an estimated $46 million in FY 82. This estimate is below the threshold figure of $100 million contained in E. O. 12291 for major rules.

B. *Regulatory Flexibility Act.* The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), that these final regulations will not have a significant impact on a substantial number of small entities.

As defined by the Regulatory Flexibility Act, the term "small entities" includes "small governmental jurisdictions." The latter term is defined as local governments (cities, counties, towns, townships, villages, school districts, or other special districts) with a population of less than fifty thousand persons. State governments are not included in this definition.

As a consequence of the reductions in Federal payments mandated by section 2161 of Pub. L. 97–35, as amended by section 137(b) of Pub. L. 97–248, the States may take actions that may have an economic impact on some physicians, hospitals or other providers of services. Any impact that does occur, however, will result from State decisions and will be difficult to assess in any cumulative sense. Moreover, the direct impact of these regulations is on State governments, which do not qualify as small entities. Therefore, a regulatory flexibility analysis is not being prepared.

VII. Waiver of Prospective Effective Date

We customarily provide a prospective effective date, for a substantive rule, of 30 days after publication in the **Federal Register.**

As explained above, this final rule completes the regulations necessary under section 2161 of Pub. L. 97–35, as amended by section 137(b) of Pub. L. 97–248, and finalizes the decision concerning third party liability recoveries that applies during FY 82 only. As a practical matter, if we provided a delayed effective date, we would be unable to implement section 2161 fully before the end of FY 82. Therefore, we find that good cause exists to waive the prospective effective date and to make these regulations effective on publication.

VIII. Waiver of Proposed Rulemaking for Pub. L. 97–248 Provisions

The Administrative Procedure Act also requires that agencies normally follow notice of proposed rulemaking procedures when issuing regulations (5 U.S.C. 553(b)). The provisions of these final regulations are based on requirements set forth explicitly in section 2161 of Pub. L. 97–35, as amended by section 137(b) of Pub. L. 97–248. As discussed in detail above, we issued interim final regulations, supplemented by a proposed regulation, to implement section 2161. A period for public comment was provided for both the interim final and proposed regulations. As to those regulations, therefore, there is no further notice required under the APA.

Moreover, we believe that the APA notice procedure may be waived for the changes in regulations mandated by section 137(b) of Pub. L. 97–248. These changes may be placed in two categories. The first consists of editorial and technical changes for which notice and comment under the APA would be unnecessary. The second category consists of changes that have an important impact on implementation of the reductions in Medicaid payments,

but which are required by clear statutory provisions. These changes are discussed above in section II of this preamble (changes required by Pub. L. 97–248).

Aside from the exceptions provided for IHS and Medicaid fraud control unit funds (both of which are of benefit to the States), the subject matter addressed by section 137(b) was analyzed in the interim final rule which, as noted, was issued subject to a public comment period, and we have considered those comments in developing the amendments now being adopted. In any case, the requirements contained in the amendments enacted by section 137(b) are specific, and HCFA is therefore not required to make significant policy interpretations in regulations. Moreover, Congress provided in section 137(d) of Pub. L. 97–248 that the provisions of section 137(b) are to be effective as if they had originally been included in section 2161 of Pub. L. 97–35 when it was enacted on August 13, 1981. Lastly, it is essential that these regulations be finalized in order to complete actions necessary on the FY 82 reductions. For these reasons, we believe that proposed rulemaking procedures are unnecessary and contrary to the public interest, and that there is good cause to waive them.

IX. List of Subjects in 42 CFR Part 433

Administrative practice and procedure, Assignment of rights, Claims, Contracts (agreements), Cost allocation, Federal financial participation, Federal matching provision, Fraud and abuse, Grant-in-Aid program—health, Hospital cost review program, Mechanized claims processing and information retrieval systems, Medicaid, Reductions in medicaid payments, State fiscal administration, Third party liability, Unemployment levels.

PART 433—STATE FISCAL ADMINISTRATION

42 CFR Part 433 is amended as follows:

A. The authority citation for Part 433 is revised to read as follows:

Authority: Secs. 1102, 1902(a)(4), 1902(a)(25), 1903(d)(2), 1903(o), 1903(p), 1903(s), 1903(t), and 1912 of the Social Security Act (42 U.S.C. 1302, 1396a(a)(4), 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), 1396b(s), 1396b(t), and 1396k), unless otherwise noted.

B. The table of contents for Part 433 is amended as follows:

1. The table of contents for Subpart A is amended by revising the title of § 433.8 to read as follows:

Subpart A—Federal Matching Provisions

433.8 Implementation of progressive reductions in FFP for fiscal years 1982–1984.

2. The table of contents of Subpart E is amended by removing the bracketed word "[Reserved]" from the title of § 433.215.

C. Subpart A is amended by revising § 433.8 to read as follows:

Subpart A—Federal Matching Provisions

§ 433.8 Implementation of progressive reductions in FFP for fiscal years 1982–1984.

Procedures for the implementation of progressive reductions in FFP for fiscal years 1982–1984, authorized under sections 1903 (s) and (t) of the Act, are described in Subpart E of this part.

D. Subpart E is amended as follows:

Subpart E—Reduction in Total Federal Payments to the States for Fiscal Years 1982–1984

1. Section 433.201 is revised to read as follows:

§ 433.201 Statutory basis and scope.

(a) *Basis.* Sections 1903 (s) and (t) of the Act (as enacted by section 2161 of Pub. L. 97–35 and amended by section 137(b) of Pub. L. 97–248) provide for progressive reductions in Federal payments to the States, in fiscal years 1982 through 1984.

(b) *Scope.* The reductions apply only to the 49 States with Medicaid programs in operation under State plans approved by HCFA as of July 1, 1981, and to the District of Columbia. Special funding provisions in § 433.10 apply to Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands and American Samoa.

2. Section 433.203 is amended by revising the definitions of "diverted funds" and "recoveries," and adding definitions of "third party" and "third party liability," in alphabetical order, to read as follows:

§ 433.203 Definitions.

For purposes of this subpart—

* * * * *

"Diverted funds" means program funds not spent because claims were denied or reduced in amount as a result of the following:

(1) Procedures under § 431.54(e) of this chapter that restrict recipients, on an individual basis as distinct from a class or recipients, to obtain Medicaid services or items from designated providers.

(2) Exclusion or suspension from participation in Medicaid, or termination of agreements, of providers engaging in fraudulent or abusive practices.

(3) Use in claims processing systems of prepayment screens that are—

(i) Applied to all or a particular portion of the claims submitted by a provider specifically identified for monitoring with respect to possible fraud or abuse; or

(ii) Specifically designed to detect fraud or abuse and applied to all claims submitted by all providers or by a general category of providers.

* * * * *

"Recoveries" means amounts, incorrectly paid to providers of services under title XIX of the Act, applicable regulations and the State plan, that are actually collected, or amounts diverted by a State agency or Medicaid fraud control unit. The amounts must have been reported to the Federal government and may not include fines, penalties and unexecuted judgements established by Federal, State or local courts or administrative bodies.

"Third party" means any individual, entity or program that is or may be liable to pay all or part of the medical costs of injury, disease or disability of an applicant or recipient.

"Third party liability" means payment resources, available from both private and public health insurance, and other liable third parties, that can be applied toward Medicaid recipients' medical and health benefit expenses.

3. Section 433.205 is amended by revising the introductory language of paragraph (c), revising paragraphs (c)(1) and (c)(2), and adding new paragraphs (c)(3) and (c)(4) to read as follows:

§ 433.205 Reductions in total Federal payments.

* * * * *

(c) *Amounts not affected by reductions.* HCFA will not apply the progressive reductions to—

(1) Payments to a State for expenditures made before fiscal year 1982;

(2) Supplementary payments made to a State resulting from its having incurred fewer expenditures than its target amount, described in § 433.217;

(3) Payments to a State under § 433.10(c)(2) of this Part for services provided through Indian Health Service facilities; or

(4) Payments to a State under Subpart D of Part 455 of this chapter for a State Medicaid fraud control unit.

4. Section 433.207 is amended by reprinting the introductory language and revising paragraph (c) to read as follows:

§ 433.207 Offsets against reductions.

HCFA will decrease the reduction specified in § 433.205 by one percentage point for a quarter for a State, for each of the following three conditions that the State meets:

* * * * *

(c) *Fraud and abuse and third party liability recoveries.* For the quarter before the quarter covered by a Federal payment, recovery through anti-fraud and abuse initiatives, described in § 433.213, of an amount equal to one percent of the Federal payment due to the State in that previous quarter. During fiscal year 1982 only, this total may include recoveries from liable third parties (see § 433.215).

5. Section 433.209 is amended by reprinting the introductory language in paragraph (b), revising paragraph (b)(6), and removing the note concerning the effective date, as follows:

§ 433.209 Qualifications for offset based on hospital cost review programs.

* * * * *

(b) The State must provide HCFA with assurances of equitable treatment, under the State's cost review program, for hospital employees and patients, and for all payers, including Federal and State programs, that pay hospitals for inpatient hospital services. In addition, in order to qualify, a hospital cost review program must—

* * * * *

(6) Result in an annual rate of increase in aggregate hospital inpatient costs per capita, or per admission, in the State that is at least two percentage points less than the rate of increase in all States without qualifying programs. A State may meet this requirement based on performance during the most recent one, two, or three year period ending at least nine months before the quarter covered by the Federal payment.

6. Section 433.213 is amended by revising paragraph (a), reprinting the introductory language of paragraph (b), revising paragraphs (b)(1) and (b)(2)(ii), revising paragraph (c) and redesignating it as paragraph (d), adding a new paragraph (c), and removing the note concerning the effective date, as follows:

§ 433.213 Offset based on fraud and abuse recoveries.

(a) *General policy.* HCFA will decrease the reduction under § 433.205 by one percentage point for each quarter in which the State demonstrates that its total Medicaid-related anti-fraud and abuse recoveries (and third party liability recoveries for fiscal year 1982 only (see § 433.215)), for the quarter before the quarter covered by the Federal payment, are equal to one percent of the Federal payment due to the State in that previous quarter. For purposes of calculating the one percent, HCFA will not include in this total any supplementary payments due to a State resulting from the State's having spent less than its target amount, described in § 433.217.

(b) *Fraud and abuse recoveries.* For purposes of paragraph (a) of this section, fraud and abuse recoveries—

(1) Must be documented by the State to the satisfaction of HCFA; and

(2) May include diverted funds or funds recovered as a result of—

(i) * * *

(ii) Audit activities that are initiated as a result of a suspicion or complaint of fraud or abuse (including any amounts recovered as restitution in civil or criminal litigation resulting from these audit activities, but not including fines, penalties, unexecuted judgments established by Federal, State, or local courts or administrative bodies, or fraud and abuse uncovered through routine audits); and

(iii) * * *

(c) *Time limits applicable to diverted funds.* For purposes of determining the amount of a State's anti-fraud and abuse recoveries for a fiscal year, HCFA will prorate diverted funds as follows:

(1) *Lock-in programs.* The amount of diverted funds from lock-in programs is based on the difference between an annual total of claims for an individual recipient and the total of those claims determined by the State to be proper. HCFA will prorate this amount over the period of the restriction or for a period of four quarters, whichever is shorter, beginning with the quarter after the quarter in which the recipient is restricted to a designated provider.

(2) *Suspension or termination of providers.* The amount of diverted funds based on the exclusion, suspension or termination of providers from participation in the Medicaid program is a projected amount of fraudulent or abusive claims, as determined by a statistical sample of the provider's Medicaid claims for the most recent year. HCFA will prorate this amount over the period of the provider's exclusion, suspension or termination, or for a period of four quarters, whichever is shorter.

(d) *Procedures for carrying forward fraud and abuse recoveries.* For purposes of paragraph (a) of this section, HCFA will carry forward, from one quarter to the next, the amount by which a State demonstrates that its fraud and abuse recoveries exceed one percent of the total Federal Medicaid expenditures for the quarter covered by the Federal payment.

(46 FR 48001, Sept. 30, 1981; 46 FR 54744, Nov. 4, 1981)

7. A new § 433.215 is added to read as follows:

§ 433.215 Third party liability recoveries.

(a) *Applicability in fiscal year 1982 only.* For fiscal year 1982 only, for purposes of determining whether a State is entitled to the offset under § 433.213, HCFA will add to the total Medicaid-related anti-fraud and abuse recoveries, funds saved as a result of recoveries from liable third parties under procedures described in Subpart D of this Part, except as provided in paragraph (c) of this section.

(b) *Conditions for inclusion of third party liability recoveries.* For purposes of paragraph (a) of this section, HCFA will include recoveries for liable third parties if the recoveries—

(1) Can be validated by audit; and

(2) Have been reported to the Federal government.

(c) *Recoveries from the Medicare program.*—(1) *General policy.* For purposes of paragraph (a) of this section, recoveries from liable third parties may not include recoveries from the Medicare program, except those based on claims paid by Medicaid because the State did not know that the individual was entitled to both Medicare and Medicaid.

(2) *Examples of excluded recoveries.* Recoveries from Medicare that are excluded are based on those cases in which the State knows, prior to the payment of a claim, that the individual is entitled to Medicare. Examples include situations in which—

(i) The State is paying Medicare premiums for the individual under State buy-in agreements or otherwise (see Subparts B and I of Part 405 of this chapter);

(ii) The individual is receiving Supplemental Security Income (SSI) benefits under title XVI of the Act; or

(iii) The State has access to or has received information from the Federal government that identifies individuals entitled to Medicare.

8. Section 433.217 is amended by revising paragraphs (b)(2) and (b)(3), redesignating current paragraph (c) as paragraph (d) and adding a new paragraph (c). Newly redesignated paragraph (d) is further amended by revising paragraph (3), redesignating paragraph (4) as paragraph (6), and adding paragraphs (4) and (5) as follows:

§ 433.217 Use of target amounts to decrease reductions.

* * * * *

(b) *Method for determining target amounts.*

(1) * * *

(2) *Fiscal year 1983.* HCFA will derive the target amount for each State for fiscal year 1983 by increasing or decreasing the 1982 target amounts by a percentage equal to the percentage increase of decrease for the 12-month period ending on September 30, 1983, in the index of the medical care expenditure category of the Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics.

(3) *Fiscal year 1984.* HCFA will derive the target amount for each State for fiscal year 1984 by the same method used for the 1983 targets, except that the 1982 target amounts will be increased or decreased based on medical care expenditure data for the 24-month period ending on September 30, 1984.

(c) *FMAP to be used for computing Federal Share of expenditures.* For purposes of paragraphs (a) and (b) of this section, HCFA will use the FMAP in effect for fiscal year 1981 as the applicable percentage to compute the actual Federal Share of expenditures.

(d) *Exclusions from target amount determinations.* HCFA will exclude the following from each year's target amount determinations:

(1) * * *

(3) Any offset payments a State receives for spending less than its target amount in the previous year;

(4) Payments to a State under § 433.10(c)(2) of this Part for services provided through Indian Health Service facilities;

(5) Payments to a State under Subpart D of Part 455 of this chapter for a State Medicaid fraud control unit; and

(6) Any reductions in Federal payments under § 433.205.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: September 14, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 23, 1982.

Richard S. Schweiker,

Secretary.

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Last Listing September 29, 1982

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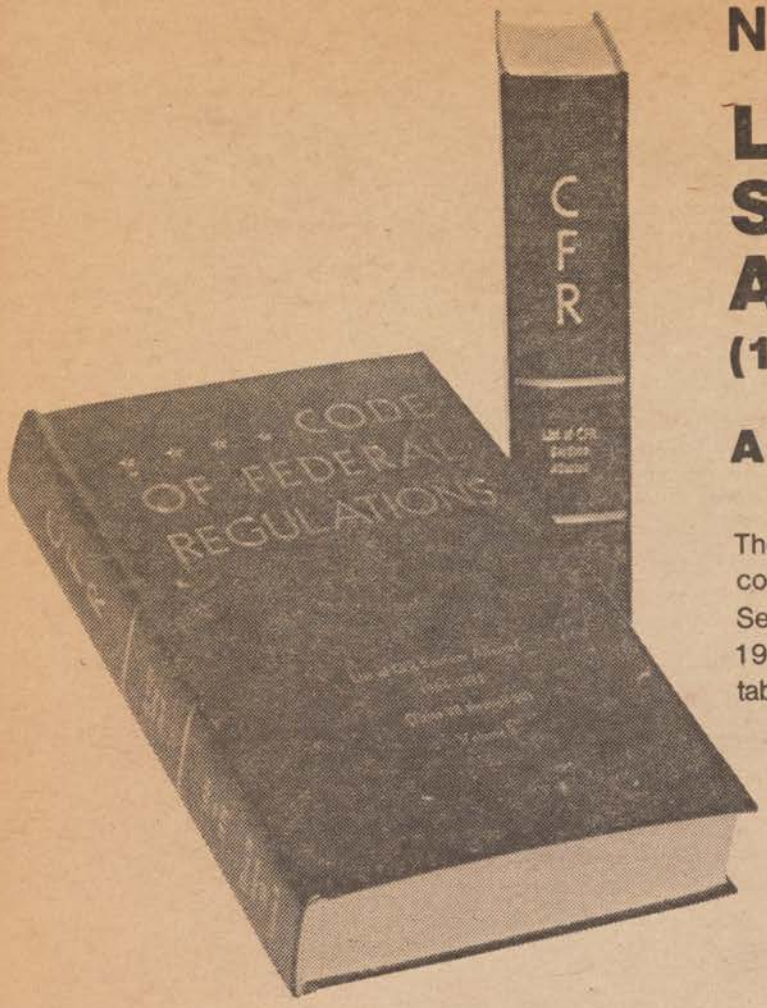
H.R. 3620/Pub. L. 97–268 Transferring certain Federal property to the city of Hoboken, New Jersey. (Sep. 27, 1982; 96 Stat. 1140) Price: $1.75.

H.R. 6068/Pub. L. 97–269 Intelligence Authorization Act for Fiscal Year 1983. (Sep. 27, 1982; 96 Stat. 1142) Price: $2.50.



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