

Federal Register

Tuesday
November 16, 1982

Selected Subjects

- Air Pollution Control**
Environmental Protection Agency
- Animal Drugs**
Food and Drug Administration
- Coal Mining**
Surface Mining Reclamation and Enforcement Office
- Dairy Products**
Agricultural Marketing Service
- Environmental Impact Statements**
Army Department
- Food Additives**
Food and Drug Administration
- Food Labeling**
Food and Drug Administration
- Food Stamps**
Food and Nutrition Service
- Grant Programs—Housing and Community Development**
Federal Housing Commissioner—Office of Assistant
Secretary for Housing
- Low and Moderate Income Housing**
Housing and Urban Development Department
- Marketing Agreements**
Agricultural Marketing Service
- Mine Safety and Health**
Mine Safety and Health Administration
- Price Support Programs**
Commodity Credit Corporation

CONTINUED INSIDE



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for \$300.00 per year, or \$150.00 for six months, payable in advance. The charge for individual copies is \$1.50 for each issue, or \$1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

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

Selected Subjects

Radio Broadcasting

Federal Communications Commission

Reporting and Recordkeeping Requirements

Alcohol, Tobacco and Firearms Bureau

School Breakfast and Lunch Programs

Food and Nutrition Service

Trade Practices

Federal Trade Commission

Contents

Federal Register

Vol. 47, No. 221

Tuesday, November 16, 1982

- The President**
PROCLAMATIONS
51547 Family Week, National (Proc. 4999)
- Executive Agencies**
- Agricultural Marketing Service**
RULES
51553 Oranges (navel) grown in Ariz. and Calif.
PROPOSED RULES
Dairy products, grading and inspection; general specifications for approved plants and standards:
51581 Dry whole milk
- Agriculture Department**
See Agricultural Marketing Service; Commodity Credit Corporation; Food and Nutrition Service; Rural Electrification Administration.
- Alcohol, Tobacco and Firearms Bureau**
RULES
Alcoholic beverages:
51569 Public use forms prepared by wholesale dealers and importers; elimination of Forms 52A, 52B, and 338 and receipts and dispositions daily recapitulation record
- Army Department**
RULES
51574 National Environmental Policy Act; implementation
- Census Bureau**
NOTICES
Surveys, determinations, etc.:
51604 Service industries, annual
- Centers for Disease Control**
NOTICES
Meetings:
51626 Alcohol solvents, behavioral teratology (NIOSH)
51626 Press operator hand movement study (NIOSH)
- Civil Aeronautics Board**
NOTICES
51602 Agency forms submitted to OMB for review
51603 Commuter fitness determinations
Hearings, etc.:
51603 Air National Aircraft Sales & Services, Inc.; fitness investigation
51604 Independent Air Inc.; fitness investigation
51603 International Air Associates Inc.; fitness investigation
51603 Mid Pacific Airlines; fitness investigation
51604 Samoa Airlines, Inc.; fitness investigation
51670 Meetings; Sunshine Act
- Civil Rights Commission**
NOTICES
Meetings; State advisory committees:
51604 Delaware
- Commerce Department**
See Census Bureau; International Trade Administration; National Oceanic and Atmospheric Administration.
- Commodity Credit Corporation**
RULES
51554 Loan and purchase programs:
Tobacco
- Commodity Futures Trading Commission**
NOTICES:
51670 Meetings; Sunshine Act (2 documents)
- Consumer Products Safety Commission**
NOTICES:
51670 Meetings; Sunshine Act
- Customs Service**
PROPOSED RULES
Administrative rulings:
51587 Powernet fabric classified as knit fabrics of man-made fibers; change of practice; advance notice
Country of origin marking:
51586 Audio cassette shells, imported; change of position; advance notice
- Defense Department**
See Army Department.
- Economic Regulatory Administration**
NOTICES
Consent orders:
51608 W. R. Hughey Operating Co.
- Education Department**
NOTICES
Meetings:
51606, 51607 Bilingual Education National Advisory Council (2 documents)
- Employment and Training Administration**
NOTICES
Adjustment assistance:
51640 American Motor Corp. et al.
51639 Amstar Corp.
51639 Dentsply International, Inc., et al.
- Energy Department**
See also Economic Regulatory Administration.
NOTICES
Contract suspension and debarment:
51607 Buening, Ronald A.
- Environmental Protection Agency**
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
51591 North Carolina, Georgia, Kentucky, and Tennessee

- Water pollution control; National pollutant discharge elimination system:
- 51593 Nebraska
- 51592 West Virginia

NOTICES

- Air quality; prevention of significant deterioration (PSD):
- 51609 Permit extensions
- 51609 Hazardous assessment; final reports of working parties of Hazard Assessment Program, Organization for Economic Cooperation and Development (OECD) Chemicals Program; availability

Federal Aviation Administration**PROPOSED RULES**

- Air carriers certification and operations:
- 51585 Flight crewmember flight time limitations and rest requirements; withdrawn

Federal Communications Commission**PROPOSED RULES**

- Common carrier services:
- 51595 Public mobile radio services; one-way signaling on a primary basis; withdrawn
- 51594 Public mobile radio services; revision and update; extension of time
- 51594 Second computer inquiry (telephone deregulation); detariffing of customer premises equipment and enhanced services; implementing procedures; AT&T supplementary comments
- Radio broadcasting:
- 51593 Broadcast renewal applicants; comparative hearing process; formulation of policy; extension of time
- Radio stations; table of assignments:
- 51599 Hawaii
- 51595 Louisiana
- 51597 New Mexico
- 51598 Pennsylvania
- NOTICES**
- 51611 Emergency broadcast system; closed circuit test Hearings, etc.:
- 51612 Loogootee Radio, Inc., et al.
- 51611 Martin, John P., et al.
- 51612 Tel-E-Page, Inc., et al.
- 51613 Ulster County Communications Corp. et al.

Federal Election Commission**NOTICES**

- 51671 Meetings; Sunshine Act

Federal Emergency Management Agency**NOTICES**

- 51614, Agency forms submitted to OMB for review (3 documents)
- 51615

Federal Home Loan Bank Board**PROPOSED RULES**

- Federal Savings and Loan Insurance Corporation:
- 51583 Insurance premiums; assessment of premiums and risk-indexed premiums; advance notice

NOTICES**Meetings:**

- 51615 Federal Savings and Loan Advisory Council; agenda change

Federal Housing Commissioner—Office of Assistant Secretary for Housing**RULES**

- Mortgage and loan insurance program:
- 51564 Flexible subsidy program; assistance for upgrading projects to meet cost-effective energy efficiency standards; interim

Federal Maritime Commission**NOTICES**

- 51615 Agreements filed, etc.
- Casualty and nonperformance, certificates:
- 51617 Epirotiki Lines
- Complaints filed:
- 51616 Companhia Siderurgica Nacional et al.
- Freight forwarder licenses:
- 51616 Gulf South Shipping Services
- 51616 International Shipping Co. et al.
- 51616 Interport, Inc.
- 51617 Interstate World Forwarders, Inc.
- 51616 Superior Shipping Co.

Federal Mine Safety and Health Review Commission**NOTICES**

- 51671 Meetings; Sunshine Act

Federal Procurement Policy Office**NOTICES**

- 51643 Retainage of funds due contractors pending completion of contracts; proposed letter; inquiry

Federal Reserve System**NOTICES**

- Applications, etc.:
- 51618 Alexandria State Co.
- 51618 First Security Corp.
- 51618 Heber Springs Bancshares, Inc.
- 51618 Hill Samuel International Banking Corp.
- 51617 Powell County Bancorp, Inc., et al.
- 51617 Southwest Bancshares, Inc.
- 51671 Meetings; Sunshine Act (2 documents)

Federal Trade Commission**RULES**

- Prohibited trade practices:
- 51558 Encyclopaedia Britannica, Inc., et al.

NOTICES

- 51619 Dairy processor premerger notification reports program; inquiry

Food and Drug Administration**RULES**

- Animals drugs, feeds, and related products:
- 51563 Diethylstilbestrol
- 51564 Dithiazanine iodide tablets and powder
- Food additives:
- 51561 Polymers; hexamethylenebis (3, 5-di-*tert*-butyl-4-hydroxyhydrocinnamate)
- Human drugs:
- 51562 Antibiotic and antibiotic-containing drugs; update and technical changes; correction
- PROPOSED RULES**
- Food labeling:
- 51588 Soft drinks in cans; exemption from label statement placement requirement

- Radiological health:
51710 Diagnostic X-ray systems; performance standard review
51706 Radiation emitting electronic products; records and reports regulations review
- NOTICES**
 Biological product licenses:
51626 Puerto Rico Community Blood Center, Inc., revocation hearing denial
 Committees; establishment, renewals, terminations, etc.:
51627 Ear, Nose, and Throat Device Section of Ophthalmic, Ear, Nose and Throat, et al.; request for nomination for representative of industry interests
 Food for human consumption:
51628 Tomato juice; identity standards deviation; temporary permit for market testing
- Food and Nutrition Service**
RULES
 Child nutrition programs:
51549 School lunch program; meat alternates, minimum required equivalencies
 Food stamp program:
51551 Eligible household certification; standard utility allowances
- Health and Human Services Department**
See Centers for Disease Control; Food and Drug Administration; Human Development Services Office.
- Housing and Urban Development Department**
See also Federal Housing Commission—Office of Assistant Secretary for Housing.
RULES
 Low income housing:
51565 Elderly or handicapped housing; eligibility of acquired existing housing for non-elderly handicapped; "development cost" definition; interim
- Human Development Services Office**
NOTICES
 Meetings:
51628 Mental Retardation, President's Committee
- Indian Affairs Bureau**
NOTICES
 Irrigation projects; operation and maintenance charges:
51629 Uintah Indian Irrigation Project, Utah; correction
- Interior Department**
See Indian Affairs Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.
- International Trade Administration**
NOTICES
 Antidumping:
51604 Canned mushrooms from China
- Interstate Commerce Commission**
NOTICES
 Motor Carriers:
51630, Finance applications (2 documents)
51632
- 51630** Insurance filings, handling
51634, Permanent authority applications (2 documents)
51635
51638 Riverside Transportation Co., Inc.; tariff filing requirements exemption
 Railroad operation, acquisition, construction, etc.:
51638 Providence & Worcester Railroad Co. et al.
 Rerouting of traffic:
51639 St. Louis Southwestern Railway Co., et al.
- Labor Department**
See also Employment and Training Administration; Mine Safety and Health Administration.
NOTICES
51641 Agency forms submitted to OMB for review
 Organization, functions, and authority delegations:
51642 Veterans' Employment, Office of Assistant Secretary; Disabled Veterans' Outreach Program
- Management and Budget Office**
See also Federal Procurement Policy Office.
51698 Budget rescissions and deferrals; cumulative report
- Mine Safety and Health Administration**
PROPOSED RULES
 Coal mine health and safety, etc.:
51684 Wire rope standards
- Minerals Management Service**
NOTICES
 Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
51629 Texaco U.S.A.
- Motor Carrier Rating Study Commission**
NOTICES
51642 Meetings; date change
- National Oceanic and Atmospheric Administration**
PROPOSED RULES
 Fishery conservation and management:
51601 Snapper-grouper complex; South Atlantic Fishery Management Council hearing
NOTICES
 Marine mammal permit applications, etc.:
51605 Japan Deep-Sea Trawlers Association et al.
- National Park Service**
NOTICES
 Historic Places National Register; pending nominations:
51629 Connecticut et al.
- Nuclear Regulatory Commission**
NOTICES
 Applications, etc.:
51642 Consumer Power Co.
- Pension Benefit Guaranty Corporation**
NOTICES
 Multiemployer pension plan; bond/escrow exemption requests:
51644 National Fruit Canning Co.
- Personnel Management Office**
NOTICES
 Meetings:
51644 Federal Prevailing Rate Advisory Committee

- Rural Electrification Administration**
NOTICES
- 51602 Environmental statements; availability, etc.:
Seminole Electric Cooperative, Inc.
- Science and Technology Policy Office**
NOTICES
- 51644 Meetings:
Acid Rain Peer Review Panel
- Securities and Exchange Commission**
NOTICES
- Hearings, etc.:
- 51646 Appalachian Power Co.
51647 Bank Security Variable Annuity Fund M et al.;
correction
51647 CNG Producing Co. et al.
51647 Columbus & Southern Ohio Electric Co.
51648 Government Liquid Reserves, Inc.
51650 National Fuel Gas Co. et al.
51650 Paine Webber RMA Tax-Free Fund, Inc.
51652 Phoenix Mutual Life Insurance Co. et al.
51654 PIA Asset Cash Trust
51654 Shearson Appreciation Fund, Inc., et al.
51655 Texas Gas Transmission Corp.
51656 Trio-Kenwood Corp.
51656 Union Oil Co. of California
51645 Intermarket trading system and National
Association of Securities Dealers, Inc.; automated
interface; deferred implementation
Self-regulatory organizations; proposed rule
changes:
- 51665 Midwest Clearing Corp.
51665 Midwest Securities Trust Co.
51658 National Association of Securities Dealers, Inc.
51664 New York Stock Exchange, Inc.
51658 New York Stock Exchange, Inc., et al.
- Small Business Administration**
NOTICES
- 51666 Agency forms submitted to OMB for review
- Surface Mining Reclamation and Enforcement
Office**
PROPOSED RULES
- Permanent program submission; various States:
- 51590 Maryland; hearing
51591 Virginia; cancellation of hearing
- Textile Agreements Implementation Committee**
NOTICES
- Cotton, wool, or man-made textiles:
- 51605 India
51606 Taiwan
- Transportation Department**
See Federal Aviation Administration.
- Treasury Department**
*See also Alcohol, Tobacco and Firearms Bureau;
Customs Service.*
NOTICES
- Bonds, Treasury:
- 51667 2007-2012 series
- Notes, Treasury:
- 51667 Y-1984 series
- Senior Executive Service:
51667 Performance Review Board; membership
- Veterans Administration**
NOTICES
- 51669 Agency forms submitted to OMB for review

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR**Proclamations:**

4999..... 51547

7 CFR

210..... 51549

272..... 51551

733..... 51551

907..... 51553

1464..... 51554

Proposed Rules:

58..... 51581

12 CFR**Proposed Rules:**

563..... 51583

14 CFR**Proposed Rules:**

121..... 51585

135..... 51585

16 CFR

13..... 51558

19 CFR**Proposed Rules:**

134..... 51586

177..... 51587

21 CFR

177..... 51561

178..... 51561

436..... 51562

505..... 51563

510..... 51563

520..... 51564

558..... 51563

Proposed Rules:

1..... 51588

101..... 51588

1002..... 51706

1020..... 51710

24 CFR

219..... 51564

885..... 51565

27 CFR

194..... 51569

250..... 51569

251..... 51569

30 CFR**Proposed Rules:**

55..... 51684

56..... 51684

57..... 51684

75..... 51684

77..... 51684

920..... 51590

946..... 51591

32 CFR

651..... 51574

40 CFR**Proposed Rules:**

52..... 51591

123..... 51592

125..... 51593

403..... 51593

47 CFR**Proposed Rules:**

Ch. I (2 documents)..... 51593,

51594

22 (2 documents)..... 51594,

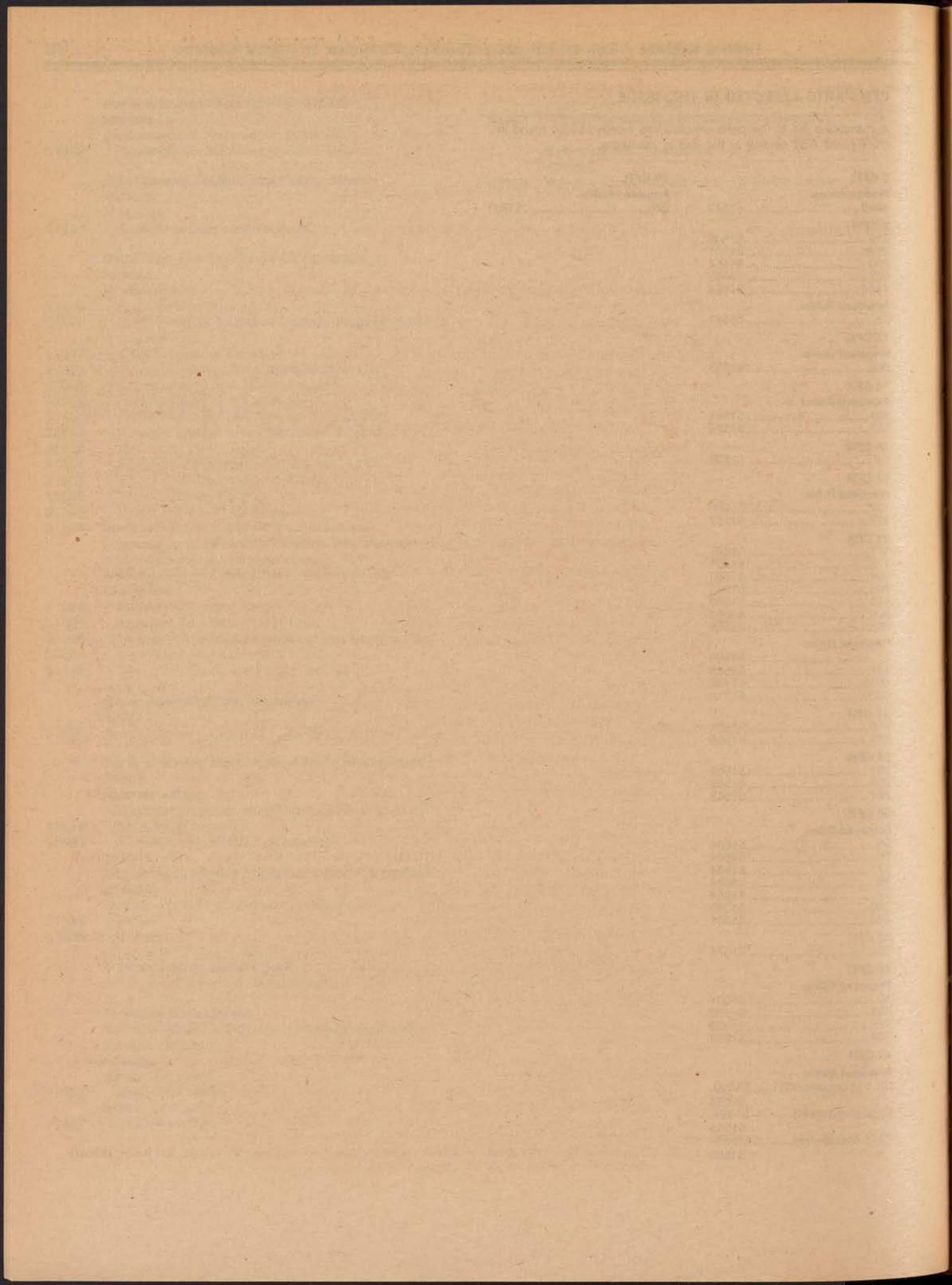
51595

73 (4 documents)..... 51595-

51599

50 CFR**Proposed Rules:**

646..... 51601



Presidential Documents

Title 3—

Proclamation 4999 of November 12, 1982

The President

National Family Week, 1982

By the President of the United States of America

A Proclamation

The family has always been the cornerstone of American society. Our families nurture, preserve and pass on to each succeeding generation the values we share and cherish, values that are the foundation for our freedoms. In the family we learn our first lessons of God and man, love and discipline, rights and responsibilities, human dignity and human frailty.

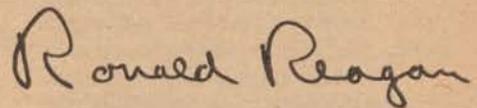
Our families give us daily examples of these lessons being put into practice. In raising and instructing our children; in providing personal and compassionate care for the elderly; in bringing the handicapped into the mainstream of community life; in maintaining the spiritual strength of religious commitment among our people—in these and other ways, America's families make immeasurable contributions to America's well-being.

Today, more than ever, it is essential that these contributions not be taken for granted and that each of us remember that the strength of our families is vital to the strength of our Nation. Recognizing that the family is a national heritage and resource, the Congress, by Senate Joint Resolution 190, has requested that the week of November 21 through 27, 1982, be designated as National Family Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of November 21 through 27, 1982, as National Family Week. I applaud the countless mothers and fathers who have committed their lives to supporting families, whether by working in the marketplace to provide financial support or by working in the home to raise children. I also applaud those who, through adoption and foster care, have gone the extra mile to provide families for those who otherwise would have none.

I invite the Governors of the several States, the chief officials of local governments and all our citizens to observe this week with appropriate ceremonies and activities. During a week in which we will also observe Thanksgiving Day, I especially invite all Americans to give thanks for the family relationships with which we have been blessed.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of Nov., in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.



[FR Doc. 82-31441

Filed 11-12-82; 4:44 pm]

Billing code 3195-01-M

Editorial Note: The President's remarks on signing Proclamation 4999 are printed in the *Weekly Compilation of Presidential Documents* (vol. 18, no. 45).

Rules and Regulations

Federal Register

Vol. 47, No. 221

Tuesday, November 16, 1982

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

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 210

[Amdt. No. 55]

National School Lunch Program; Meat Alternate Equivalencies

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the National School Lunch Program minimum required equivalencies for cooked dry beans or peas and eggs to their pre-May 1980 levels. This action will assist in decreasing plate waste and will relieve operational hardships encountered by schools and food manufacturers in meeting the current equivalencies. Upon the effective date of this rule, one-half cup of cooked dry beans or peas or one large egg shall meet the Group IV (9-11 years of age) two-ounce meat/meat alternate component requirements. Group I-III and Group V portion sizes have also been revised proportionately.

EFFECTIVE DATE: December 16, 1982.

FOR FURTHER INFORMATION CONTACT:

Cynthia H. Ford, Branch Chief, Technical Assistance Branch, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302.

Classification

This final rule has been reviewed under Executive Order 12291 and has been classified as not major. This rule is expected to decrease costs by providing School Food Authorities and institutions with more flexibility in administering the National School Lunch Program (NSLP). This rule will not have an annual effect on the economy of \$100

million or more, nor will it result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or foreign markets.

This rule has also been reviewed with regard to the requirements of Public Law 96-354, the Regulatory Flexibility Act. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this rule will not have a significant economic impact on a substantial number of small entities.

This final rule does not contain any reporting or recordkeeping provisions which are subject to approval by the Office of Management and Budget.

Background

On May 16, 1980, the Department published a final rule (45 FR 32502) which increased the equivalencies (portion sizes) of certain meat alternates. As of July 1, 1980, both schools and food manufacturers were to consider 1 cup of cooked dry beans or peas, or 2 large eggs to be equivalent to 2 ounces of cooked lean meat. Those schools whose suppliers could not quickly comply with the larger equivalencies were exempt from the July 1, 1980, implementation date for one year. In June 1980, the Department increased the cottage cheese equivalency from 2 to 4 ounces and published this change in the *Food Buying Guide For School Food Service*, PA-1257. These increases were made to make these meat alternates more nutritionally comparable in protein content to meat and other meat alternates. Realizing that these larger equivalencies (i.e., 1 cup of beans for Group IV lunch patterns) might be considered excessive, the Department recommended in the May 1980 final rule that schools reduce the quantity of the meat alternate served and supplement it with an additional meat or meat alternate.

After publication of the May 16, 1980, final rule the Department continued to receive reports from schools and food manufacturers of the operational hardships encountered in recalculating

recipes and reformulating products. Schools also reported an appreciable increase in plate waste after implementing the larger equivalencies. In response to these reports, the Department published a Notice on July 17, 1981 (46 FR 37017), delaying the implementation date of the larger equivalencies until July 1, 1982, to allow more time for schools using manufactured products and manufacturers to recalculate recipes and reformulate products.

During this extended time the Department continued to receive reports from schools and food manufacturers of plate waste and production problems caused by implementing the larger equivalencies. Responding to these reports, the Department on June 29, 1982, published a proposed rule (47 FR 28106) to return the equivalencies for cooked dry beans or peas and eggs to their pre-May 1980 levels. Because no difficulties had been reported concerning the larger cottage cheese equivalency, it was proposed that this requirement remain unchanged. By proposing to return to the pre-May 1980 levels, the Department recognized that the lower equivalencies would not be comparable in protein content to meat and other meat alternates. However, after considering the lunch pattern as a whole, it was clear the protein contribution of all the foods served for the Group IV lunch pattern requirements exceeded the NSLP's nutritional goal of providing one-third the Recommended Dietary Allowances (RDA).

On July 2, 1982, a second Notice was published (47 FR 28909) further delaying the implementation date of the larger equivalencies until the proposed rulemaking process was complete.

Comment Analysis

On August 30, 1982, the proposed rule comment period closed. A total of forty-three comments were received during the sixty day comment period. Comments were received from concerned citizens, school food service directors, State agencies, food manufacturers and a professional nutrition group. Of the forty-three comments received, approximately two-thirds were in favor and one-third were opposed to the proposal.

Comments in Favor

Commentors favoring the proposal agreed that they had experienced increased plate waste and operational problems in recalculating recipes and reformulating products. School food service directors noted that students were either not eating all of the meat alternate item, or eating the full portion but feeling too full to eat the rest of the meal. Although the Department had recommended that schools reduce the quantity of the meat alternate served and supplement it with an additional meat alternate or meat item, commentors stated that this recommendation was not always practical, especially for schools utilizing the Offer versus Serve (OVS) regulatory provision (§ 210.10(a)(5)) or a centralized food preparation system.

In general, commentors agreed with the proposed rule rationale that the overall protein contribution of the group IV lunch pattern exceeded the one-third RDA goal and therefore would not have a significant nutritional impact.

Comments in Opposition

Commentors opposing the proposal were concerned that the proposed equivalencies would not be comparable in protein content to meat or other meat alternates and therefore would result in a decrease in protein content of the lunch. Some commentors mentioned that although the overall protein contribution of the lunch pattern exceeded the NSLP goal, students under the OVS provision can take as few as three of the five food items offered and would not benefit from the total protein contribution of the lunch. A few commentors noted that for some children the school lunch is the only balanced meal eaten during the day and therefore the lunch should be as nutritious as possible.

Comments on Cottage Cheese

A majority of all comments received favored maintaining the cottage cheese equivalency at its current 4-ounce level.

Discussion

This discussion will be devoted to only those comments opposing the proposal since commentors favoring the proposed meat alternate equivalencies totally agreed with the rationale for the proposed change. Commentors opposing the proposal focused on three issues: (1) The decrease in protein contribution of the revised meal alternate equivalencies, (2) the effect of the OVS provision on the overall protein content of the meal, and (3) the special nutrition needs of certain children. The following responds to these issues:

(1) Decreased protein content of the lunch—although the proposed pre-May 1980, equivalencies are lower in protein content than the current equivalencies, the overall protein contribution of the lunch which contains any one of the revised equivalencies still exceeds the school lunch nutrition goal of one-third the RDA for the Group IV lunch pattern requirements. For example, a lunch which contains one-half cup cooked dry beans or peas or an egg as the meat/meat alternate component in addition to 8-ounces of milk, $\frac{1}{4}$ cup fruit/vegetables and one slice of bread provides 53 percent of the RDA for protein for Group IV children.

(2) The effect of OVS—both Departmental and independent NSLP food consumption studies performed before the 1980 equivalency increase showed that the food items most commonly declined are those from the fruit/vegetable component category. The milk component was found to have the highest consumption rate, and the meat/meat alternate component had the second highest consumption rate.

In evaluating the protein content of a lunch under the OVS provision, a student declining the fruit/vegetable component, but eating the three food item minimum (milk, bread/bread alternate and meat/meat alternate components) would still be eating a lunch which contains approximately one-third of the RDA for protein

according to the level established for the Group IV lunch pattern requirement.

(3) The special nutrition needs of certain children—The Department acknowledges that for some children, the school lunch is the only balanced meal eaten during the day. However, the Department has always stated that the lunch pattern should be considered as the minimum quantities required. Schools may always serve larger amounts of either meat alternates or any other food item to meet specific needs.

Conclusion

After careful consideration of all the comments received, the Department has decided to finalize the proposed rule without change. This final rule will assist in relieving the operational problems encountered by schools and food manufacturers and should decrease plate waste. Effective with this rule, one-half cup of cooked dry beans or peas, or one large egg will meet the 2-ounce meat/meat alternate component requirement for Group IV lunch pattern requirements. Groups I-III and Group V portion sizes have been revised proportionately. Those schools desiring to either implement or continue to serve the larger equivalencies may do so at their own discretion.

List of Subjects in 7 CFR Part 210

Food assistance programs, National school lunch program, Grant programs, Social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, Part 210 National School Lunch Program Regulations are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

In § 210.10(a)(3), the School Lunch Pattern table is amended by revising the minimum and recommended quantities for eggs and cooked dry beans or peas stated in the meat or meat alternate category as follows:

SCHOOL LUNCH PATTERN—APPROXIMATE PER LUNCH MINIMUMS

Component	Minimum quantities				Recommended quantities, Group V, 12 years and older (7-12)
	Group I, age 1-2 (preschool)	Group II, age 3-4 (preschool)	Group III, age 5-8 (K-3)	Group IV, age 9 and older (4-12)	
Milk.....	.....	.....	.....	.....	.....
Meat or meat alternate (quantity of the edible portion as served)	Large egg.....	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	1.....
	Cooked dry beans or peas.....	$\frac{1}{2}$ cup.....	$\frac{1}{2}$ cup.....	$\frac{1}{2}$ cup.....	$\frac{1}{2}$ cup.....
Vegetable or fruit.....	.....	.....	.....	.....	.....
Bread or bread alternate.....	.....	.....	.....	.....	.....

(Sec. 9, Pub. L. 79-396, 60 Stat. 223 (42 U.S.C. 1758(A)).

Dated: November 10, 1982.

Christopher Martin,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 82-31327 Filed 11-15-82; 8:45 am]

BILLING CODE 3410-30-M

7 CFR Parts 272 and 273

[Amdt. No. 230]

Food Stamp Program; Standard Utility Allowances

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rulemaking.

SUMMARY: The Food Stamp Act Amendments of 1982 require several changes in the use of standard utility allowances in determining household excess shelter cost deductions. This rule incorporates these changes. This rule: (1) Makes use of standard utility allowances a State agency option; (2) requires FNS approval of standard allowances; (3) deletes the requirement that State agencies adjust standard allowances to reflect seasonal cost variations; (4) restricts eligibility for the standard allowance for heating and cooling costs to households which actually incur such costs; and (5) requires the proration of standard allowances among separate households living in the same residence. These changes are intended to simplify Program administration, increase State agency flexibility, and reduce costs, waste, and abuse.

EFFECTIVE DATE: This interim final rule is effective on November 16, 1982. To be assured of consideration in the development of the final rule, comments must be received by February 14, 1983.

ADDRESS: Comments should be addressed to Mr. Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be addressed to Mr. Thomas O'Connor at the above address or by telephone at (703) 756-3429.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order No. 12291 and Secretary's Memorandum No. 1512-1. This action will not result in an annual effect on the economy of \$100 million or

more or a major increase in costs or prices for consumers, individuals, Federal, State or local governments, or geographical regions. Additionally, this action will not have a significant effect 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. Therefore, this action has been classified "not major."

This rulemaking is being published as an interim rule, effective on publication, consistent with the mandate of Section 193 of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97-253, enacted on September 8, 1982). Section 193 mandates that most of the provisions of Pub. L. 97-253, including these provisions addressed in this rule, are effective as of the date of enactment of that law. Therefore, it is necessary to provide guidance to State agencies as soon as possible regarding the new provisions. For these reasons, Samuel J. Cornelius, Administrator of the Food and Nutrition Service, pursuant to 5 U.S.C. 553, has determined that prior public comment on this rule is impracticable and contrary to the public interest and that good cause exists for making this rule effective less than 30 days after publication. Public comment is solicited on this rule for 90 days. All comments received will be analyzed and any appropriate changes in the rule will be incorporated in a subsequent publication.

Regulatory Flexibility Analysis

This action also has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The new requirements will reduce the excess shelter deductions of some households, and will increase State agency administrative flexibility.

Paperwork Reduction Act

This rule does not contain recordkeeping or reporting requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Income Deductions for Utility Costs

The current regulations provide a deduction for a household's shelter costs which exceed 50 percent of the household's net income after the other deductions. (The standard deduction,

the earned income deduction, the excess medical cost deduction, and the dependent care deduction, as applicable, are deducted from gross income first.) The excess shelter cost deduction, alone or when combined with the dependent care deduction, cannot exceed \$115 per month, unless the household contains an elderly or disabled member. Households with elderly or disabled members are not subject to the \$115 limit on the excess shelter cost deduction.

Deductible shelter costs include rent or mortgage payments, property taxes, and utility expenses. Allowable utility expenses include charges for electricity, heating/cooling and cooking fuel, water and sewerage, garbage and trash collection, and the basic fee for one telephone. Households which incur certain utility expenses (such as electricity, heating and cooking fuel) separately and apart from their rent or mortgage payments are allowed to use the State agency's standard utility allowance. Households which do not incur these costs separately may only deduct their actual utility expenses as billed.

Final rules published on July 15, 1974, at 39 FR 26002, first allowed State agencies to establish standard utility allowances. Current rules, published on October 17, 1978 at 43 FR 47846, require State agencies to establish a standard allowance for utility expenses which households may include in their claimed shelter costs. The method which the State agency uses to compute the standard allowance is subject to approval by FNS. The State agency is required to adjust its standard allowance to reflect seasonal variations unless the State agency can demonstrate that variations are not warranted.

The current rules allow households which have utility costs which exceed the standard allowance to deduct their actual costs. Households which are eligible for the standard allowance must be allowed to switch between the standard allowance and their actual costs, or vice versa, at least once during the certification period. The State agency may choose to allow households to switch more often.

Section 149 of Pub. L. 97-253 mandates a number of changes regarding current policy on utility standards. The most basic change required by Pub. L. 97-253 makes the use of a standard utility allowance a State agency option. State agencies which elect not to use a standard allowance must use each household's actual utility costs to determine the utility portion of the excess shelter cost deduction.

This change offers two advantages. First, State agencies will have greater administrative flexibility. State agencies will be able to elect not to develop and update the complex methodology for establishing the standard allowance. Second, State agencies which choose to use only actual utility costs in determining the size of the deduction will more accurately reflect household circumstances. Even greater accuracy will be attained as such State agencies implement the monthly reporting and retrospective budgeting systems mandated by sections 107 and 108 of Pub. L. 97-35. (The monthly reporting and retrospective budgeting provisions were incorporated in Program regulations at 47 FR 22684, May 25, 1982.) Of course, use of actual utility costs for all households would to some extent complicate the certification process, and might tend to increase certification errors. State agencies which believe that these problems would be substantial may choose to continue offering the standard utility allowance.

This rule makes a number of other changes in the provisions regarding standard utility allowances. These changes are briefly described below. Except where indicated otherwise, the changes reflect the provisions of Pub. L. 97-253.

1. State agencies are required to have their standard allowances approved by FNS. Currently, only the methodologies must be approved. By requiring State agencies to submit their standard allowances along with their methodologies, this change will help to make standard allowances more consistent between States and to ensure that unacceptably high standard allowances are not used. The legislative history on Pub. L. 97-253 indicates that Congress intends that the Department address these problems. (See Senate Report No. 97-504, 97th Congress, 2nd Session, July 26, 1982, page 34.)

2. State agencies are no longer required to adjust their standard utility allowances seasonally or to get prior approval from FNS should they choose not to vary the standard allowance seasonally. State agencies may choose to reflect seasonal cost variations by using a twelve-month average of utility costs to establish their standard allowances. The objective of this change is to simplify administration and reduce paperwork requirements.

3. Only those households which are billed separately for their costs for heating or cooling (fuel or electricity) are eligible for the standard utility allowance which includes heating or cooling costs.

Households which have these costs included in their normal rent, even if they are billed separately for excess costs, are not eligible to use the standard allowance for heating or cooling costs. For example, households living in public housing units which have central utility meters and which are charged only for their excess utility costs are not eligible to use the standard allowance for heating or cooling costs. Households which pay only excess costs may include only their actual heating or cooling costs, over and above the amount included in their rent, in their shelter costs. Since the standard allowance which includes a heating or cooling component is developed to reflect the average circumstances of households with full utility costs, the standard allowance would overcompensate households with such marginal costs. This change is designed to ensure that only households which directly incur these major utility expenses are permitted to deduct this standard allowance.

4. Households shall receive the standard allowance which includes heating and cooling costs only for the months in which they are billed for heating or cooling costs. During the heating season, households which are billed less often than monthly and are eligible for averaging their utility costs under 7 CFR 273.10(d)(3) may continue to use the standard allowance in the months between billing months, as long as they are otherwise eligible for the standard utility allowance. Households which have deducted such intermittent heating expenses as actual costs shall not be permitted to switch to the standard utility allowance during the months between billing months.

5. Multiple households living in the same residence are allowed just one standard utility allowance. The one standard allowance shall be divided equally among the households which contribute to meeting utility costs, whether or not each household participates in the Program. This change is intended to prevent the excessive deduction permitted under current rules, whereby each household in a multiple household residence is permitted to use the full standard utility allowance.

Implementation

The provisions of this rule are effective upon publication. State agencies which elect to continue to use standard utility allowances must implement the changes included in this rule no later than January 1, 1983. These State agencies shall submit their standard utility allowances for FNS approval and begin to do all

certifications and recertifications in accordance with this rule no later than January 1, 1983.

State agencies which choose to use actual utility costs for all households may begin to do so at any time after publication. In order for State agencies which have ceased using standard utility allowances to recommence using them, the State agencies must first receive FNS approval for their methodologies and their standard utility allowances.

Index

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant program/social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR Part 272 and 7 CFR Part 273 are amended as follows:

PART 272—REQUIREMENTS OF PARTICIPATING STATE AGENCIES

1. In § 272.1, a new paragraph (a)(50) is added.

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(50) State agencies shall implement the provisions of Amendment No. 230 no later than January 1, 1983.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.9, paragraph (d)(6) is revised in its entirety.

§ 273.9 Income and deductions.

* * * * *

(d) *Income deductions.* * * *

(6) *Standard utility allowance.* (i) The State agency may elect to offer a standard utility allowance to households for use in calculating shelter costs. The standard utility allowance which includes a heating or cooling component shall be available only to households which incur heating or cooling costs separately and apart from their rent or mortgage. To be qualified, the household must be billed on a regular basis for its heating and cooling costs. The household shall receive the standard utility allowance which includes a

heating or cooling component only for months in which the household is actually billed for heating or cooling costs. However, during the heating season, a household that is billed less often than monthly for its heating costs but is otherwise eligible to use the standard allowance may continue to use the standard allowance between billing months. A household living in a public housing unit which has central utility meters and charges the household only for excess utility costs shall not be permitted to use the standard utility allowance which includes a heating or cooling cost component. Payment of excess heating or cooling costs shall not qualify the household for the standard utility allowance which includes a heating or cooling component. If a household is not entitled to the standard utility allowance, it may claim the actual utility expenses (for any utility identified in paragraph (d)(5)(iii) of this section) which it does pay separately.

(ii) State agencies shall develop methodologies, subject to FNS approval, to be followed in establishing their standard utility allowances. The standard allowance(s) developed by the State agency shall be submitted to FNS for approval.

(iii) The State agency may establish separate standard allowances for the utilities defined in paragraph (d)(5)(iii) of this section or it may establish a single standard allowance.

(A) If the State agency establishes separate standard allowances, households which do not qualify for the standard allowance for heating and cooling costs may be allowed to use the other standard allowances.

(B) If the State agency establishes a single standard allowance, it shall include the cost of heating and/or cooling, cooking fuel, electricity not used to heat or cool the residence, the basic service fee for one telephone, water, sewerage, and garbage and trash collection.

(C) The State agency may develop a method, subject to FNS approval, for calculating a mandatory telephone allowance for use in conjunction with a single utility allowance or as the standard allowance for the telephone if the State has separate standard allowances by utility. In States with a single utility allowance, the telephone allowance would apply to households which are not entitled to claim the overall standard, but which, nonetheless, incur separate telephone expenses. The State agency may mandate use of the telephone allowance even if actual telephone costs are higher.

(iv) The State agency shall review and adjust the standard utility allowance(s) annually to reflect changes in the cost of utilities. The State agency may use data gathered through quality control sampling, surveys of utility company rates, or other methods for updating the standard utility allowance(s). The State agency may vary the size of the standard utility allowance to reflect differences such as seasonal cost changes or cost variations between geographical areas.

(v) At the time of certification or recertification, the household shall be advised that it may deduct its actual utility costs rather than the standard allowance(s) (except as provided in paragraph (d)(6)(iii)(C) of this section for a telephone standard) throughout the certification period if the household can verify these costs. The State agency is required to permit households to switch between actual utility costs and the utility standard at least once during the certification period; any further switching shall be at the discretion of the State agency.

(vi) Where the household shares a residence and utility costs with other individuals, the standard allowance shall be divided equally among the parties which contribute to meeting the utility costs. In such cases, the household shall only be permitted to use its prorated share of the standard allowance, unless the household uses its actual costs.

(91 Stat. 958 (7 U.S.C. 2011-2029))

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

Dated: November 9, 1982.

Christopher Martin,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 82-31281 Filed 11-15-82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 551]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period November 12-18, 1982. Such action is needed to provide for orderly marketing of fresh

navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: November 12, 1982.

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

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. The Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982-83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on November 9, 1982, at Visalia, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is improving.

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

regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

Section 907.851 is added as follows:

§ 907.851 Navel Orange Regulation 551.

The quantities of navel oranges grown in Arizona and California which may be handled during the period November 12, 1982, through November 18, 1982, are established as follows:

- (1) District 1: 1,075,000 cartons;
- (2) District 2: Unlimited cartons;
- (3) District 3: 125,000 cartons;
- (4) District 4: Unlimited cartons.

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

Dated: November 10, 1982.

D. S. Kuryloski,

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

[FR Doc. 82-31394 Filed 11-12-82; 11:57 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1464

Tobacco Loan Program; No Net Cost Tobacco Program

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to amend certain provisions of the regulations found at 7 CFR Part 1464 which govern the Commodity Credit Corporation price support loan program for tobacco in order to implement certain changes in the program as required by the No Net Cost Tobacco Program Act of 1982, (Pub. L. 97-218, 96 Stat. 197, approved July 20, 1982) (the "1982 Act"). These program changes affect the terms and conditions under which price support will be made available to producers of tobacco for the 1982 and subsequent crops.

EFFECTIVE DATE: November 18, 1982. Comments must be received by January 17, 1983 in order to be assured of consideration.

ADDRESS: Send written comments to James M. Davis, Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service

(ASCS), P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Tobacco and Peanuts Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447-2715. The Final Regulatory Impact Analysis describing the impact of implementing this interim rule is available upon request from Mr. Burgess.

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

The title and number of the Federal Assistance Program to which this rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases; Number: 10.051.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation ("CCC") is not required by 5 U.S.C. 553 or any other provisions of law to publish a notice of proposed rulemaking with respect to the subject matter of this interim rule.

This interim rule is necessary in order to implement the price support-related provisions of the 1982 Act. Since these provisions of the 1982 Act are effective with respect to the 1982 and subsequent crops of tobacco, it is essential that this interim rule become effective upon date of publication of this rule in the Federal Register without prior opportunity for public comment. However, the public is invited to comment on this interim rule for a period of 60 days after its publication in the Federal Register. A final document discussing comments received and any amendment to this interim rule which may be required will be published in the Federal Register as soon as possible following the close of the comment period.

The 1982 Act amended the Agricultural Act of 1949 and the Agricultural Adjustment Act of 1938 to

make significant changes in the tobacco price support program, including the following: (1) Each tobacco producer association which does not request the Secretary to establish a No Net Cost Tobacco Account must establish a No Net Cost Tobacco Fund consisting of contributions made by producers of the kind of quota tobacco handled by the association; (2) effective for the 1983 and subsequent crops of Flue-cured tobacco, a similar contribution must be made by each owner and operator of any farm who leases and transfers all or any part of a Flue-cured acreage allotment to another farm; (3) the Secretary shall, upon the request of an association that carries out the price support program for Burley and other kinds of tobacco (except Flue-cured), and may, if the Secretary determines, after consultation with such association, that the accumulation of the No Net Cost Tobacco Fund for such association is, and is likely to remain, inadequate to reimburse CCC for net losses which CCC sustains under its loan agreement with such association, establish a No Net Cost Tobacco Account with CCC in lieu of a No Net Cost Tobacco Fund established with the association and require producers who market Burley and other kinds of tobacco (except Flue-cured) to agree to pay marketing assessments to this account; (4) as a condition of eligibility for price support, producers must agree to contribute to the Fund or to pay marketing assessments to the Account which are established for the association which makes price support available to them; (5) the contributions or assessments must be made in amounts determined by the association and approved by the Secretary; (6) each association must issue capital stock or certificates or qualified per unit retain certificates to persons who contribute to the association's Fund; (7) any net gains from the sale by an association of any crop of loan collateral tobacco will be retained by CCC for (a) application against any losses which it sustains with respect to the 1982 and subsequent crops of the association's loan tobacco or (b) reducing outstanding balances of any price support loans made by CCC to the association with respect to the 1982 and subsequent crops of tobacco; (8) the Secretary may release to the association (except Burley) for use for other purposes or, in the case of Burley tobacco, for distribution to members of the association any net gains or amounts in the Fund or Account which exceed amounts the Secretary determines necessary to achieve the program's "no net cost" objective, which is to provide

for the operation of the tobacco price support and production adjustment program in such a manner as to result in no cost to taxpayers; (9) the Secretary may terminate a loan agreement with, or make no additional funds available to, an association if the association does not comply with these regulations; (10) for the 1983 and subsequent crops of tobacco, the marketing of any kind of tobacco that is not eligible for price support because the farm operator or producer has not agreed to contribute to the Fund or pay assessments to the Account will be subject to the same penalty as that which is imposed for marketing tobacco from a farm in excess of the marketing quota for the farm; and (11) the Secretary may reduce increases in the level of support for any kind of tobacco whenever the Secretary determines that any grade of a kind of tobacco for any crop year will be in excess domestic supply or will be noncompetitive in the world market.

No Net Cost Tobacco Fund and Account

The 1982 Act requires that effective for the 1982 and subsequent crops, each producer association which does not request that the Secretary establish a No Net Cost Tobacco Account within CCC must establish a No Net Cost Tobacco Fund within the association. The Fund is intended to ensure that the CCC will not suffer net losses with respect to price support loans made to associations for the 1982 and subsequent crops. Beginning with the 1982 crop, the Secretary will require that, as a condition of eligibility for price support, each producer of any kind of quota tobacco contribute to a Fund for all tobacco marketed. Beginning with the 1983 crop, each owner and operator of any farm who leases and transfers all or any part of a Flue-cured allotment or quota to another farm also will be required to contribute to the Fund established by their association. While the amount of contribution will be established by each association, the Secretary must determine that the amount established by an association will result in an accumulation of a Fund adequate to achieve the "no net cost" objective. Effective with the 1982 and subsequent crops of tobacco, any net gains realized from the sale of loan tobacco by a producer association will be retained by CCC (1) For application against any losses which CCC may incur with respect to the sale of loan tobacco by an association or (2) for reducing the outstanding balance of any price support loan which is made by CCC to the association.

Beginning with the 1982 crop, at the request of an association that carries out

the price support program for Burley and other kinds of tobacco (except Flue-cured), the Secretary must establish, in lieu of a No Net Cost Tobacco Fund, a No Net Cost Tobacco Account within CCC and shall require producers who market such kinds of tobacco to agree to pay into such Account marketing assessments to cover any net losses which CCC may sustain under its loan agreement with an association. An Account also will be established if the Secretary determines, after consultation with an association, that the accumulation of the association's Fund is inadequate to reimburse CCC for any net losses CCC may sustain under its agreements with the association.

Adjustment of Price Support Level

The level of support is determined by the Secretary for each crop of tobacco based upon a formula prescribed in section 106 of the Agricultural Act of 1949, as amended (7 U.S.C. 1445). This statutory formula for determining the level of price support adjusts the 1959 support level by a 3-year average of the index of prices paid by farmers, including wage rates, interest, and taxes (parity index). The formula, however, does not give the Secretary discretion to adjust the overall support levels for tobacco when supplies become excessive. The 1982 Act added a new Section 106(d) to the 1949 Act to give the Secretary discretion to adjust support levels within prescribed limits.

Under Section 106(d), if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or have not been disapproved by producers will likely be excessive, the Secretary may, after prior consultation with the association through which price support is made available to producers, reduce the support rate which would otherwise be established for such grade of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco. However, the weighted average of the support rates for all eligible grades of such kind of tobacco after such reduction must reflect not less than (1) 65 percent of the increase in the support level which would otherwise be required by section 106 or (2) the support level for such kind of tobacco established under section 106 if the support price decreases from the previous year. For example: The support level for Flue-cured tobacco was 158.7 and 175.9 cents per pound for the 1981 and 1982 crops, respectively. Using these figures, the calculation for determining the 1982 adjusted support level per

pound for Flue-cured tobacco is as follows:

175.9 cents per lb. (1982 support level)
 - 158.7 cents per lb. (1981 support level)
 17.2 cents per lb. (Total increase)
 × 65% cents per lb. (reduction factor)
 11.2 cents per lb. (adjusted increase)
 + 158.7 cents per lb. (1981 support level)
 169.9 cents per lb. (1982 adjusted support level)

The support rates determined by the Secretary for the various grades of 1982 crop Flue-cured tobacco, considering the percentage distribution of all official grades, reflect the 169.9 cents per pound adjusted support level.

List of Subjects in 7 CFR Part 1464:

Price support programs, Tobacco.

Interim Rule

PART 1464—[AMENDED]

Accordingly, the regulations at 7 CFR Part 1464 are revised to read as follows:

1. In § 1464.1, paragraph (a) is amended by revising the first and last sentence to read as follows:

§ 1464.1 Administration.

(a) This program will be administered by the Tobacco and Peanuts Division, ASCS, under the general direction and supervision of the Executive Vice President, CCC. * * *

The names of such associations may be obtained from the Tobacco and Peanuts Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

2. Section 1464.3 is revised to read as follows:

§ 1464.3 Level of price support.

(a) The level of price support for eligible tobacco shall be as required by the Agricultural Act of 1949, as amended. For each crop of any kind of tobacco, the level of price support shall be determined by multiplying the support level of the 1959 crop or, if marketing quotas were disapproved for the 1959 crop, the level at which the 1959 crop would have been supported if marketing quotas had been in effect, by the ratio of (1) the average index of prices paid by farmers, as defined in section 301(a)(1)(C) of the Agricultural Adjustment Act of 1938, as amended, for the three calendar years immediately preceding the calendar year in which the marketing year begins for the crop for which the support level is being determined to (2) the average index of such prices paid by farmers for the 1959 calendar year.

(b) Effective for the 1982 and subsequent crops of tobacco, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, the Secretary, after prior consultation with the appropriate association, may reduce the support rate which would otherwise be established for such grade of tobacco. Before reducing the support rate for a particular grade of tobacco, the Secretary must take into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco. After such reduction, however, the weighted average of the support rates for all eligible grades of such kind of tobacco shall reflect not less than: (1) 65 percent of the increase in the support level for such kind of tobacco which would otherwise be established under paragraph (a) of this section, if the support level for such kind of tobacco is higher than the support level for the preceding crop, or (2) the support level for such kind of tobacco established under paragraph (a) of this section, if the support level for such kind of tobacco is not higher than the support level for the preceding crop. All official grades shall be considered in determining the weighted average of the grade loan rates. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the following factors will be considered: (i) The domestic supply, including domestic inventories, (ii) the amount of such tobacco pledged as security for price support loans, and (iii) anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco. The increase in the support level for any marketing year shall be determined by comparing the support level computed in accordance with the provisions of paragraph (a) of this section for the previous year to the support level computed in accordance with the provisions of paragraph (a) for the current year. If the support rate for the current year is higher than such rate for the previous year, an amount which is not less than 65 percent of such increase shall be added to the support price which is determined and announced in accordance with the provisions of this paragraph (b) for the previous marketing year. Such total shall be the adjusted support price for the current marketing year.

(c) Except for crop year 1982, the level of price support for each kind of tobacco will be announced as soon as practicable after the beginning of each

calendar year. Schedules of loan rates, by types and grades for each kind of tobacco, will be available in the county ASCS offices and from the producer association insofar as practicable before the opening of the markets. Flue-cured tobacco of varieties Coker 139, Coker 140, Coker 316, Reams 64, and Dixie Bright 244, or a mixture or strain of such seed varieties or any breeding line of Flue-cured tobacco seed varieties, including, but not limited to, 187 Golden Wilt (also designated by such names as No-Name, XYZ, Mortgage Lifter, Super XYZ), having the quality and chemical characteristics of the seed varieties designated as Coker 139, Coker 140, Coker 316, Reams 64, or Dixie Bright 244 will be supported at one-half the support rate, plus 50 cents per hundred pounds, for comparable grades of acceptable varieties.

3. Section 1464.7 is amended by adding a new paragraph (e) as follows:

§ 1464.7 Eligible producers.

* * * * *

(e) An agreement to contribute to the No Net Cost Tobacco Fund or Account, as applicable, established for the association in accordance with § 1464.10 for such kind of tobacco has been filed with the local county ASC committee by the producer or on behalf of the producer by the farm operator.

4. Section 1464.8 is amended by adding a new paragraph (j) as follows:

§ 1464.8 Eligible tobacco.

* * * * *

(j) Is tobacco produced on a farm for which an agreement to contribute to the No Net Cost Tobacco Fund or Account, as applicable, established for the association in accordance with § 1464.10 for such kind of tobacco has been filed with the local county ASC committee.

5. Section 1464.10 is revised to read as follows:

§ 1464.10 No net cost tobacco fund or account.

(a) *Definitions.* As used in this Part and in all instructions, forms, and documents in connection therewith, the following terms shall have the meanings herein assigned to them.

(1) "Account" means an account established within the CCC for an association (except Flue-cured), which account shall be known as the "No Net Cost Tobacco Account."

(2) "Area" when used in connection with an association (except Flue-cured), means the general geographical area in which farms of the producer-members of such association are located, as determined by the Secretary.

(3) "Association" means a producer-owned cooperative marketing association which has entered into a loan agreement with CCC to make price support available to producers of tobacco.

(4) "CCC" means the Commodity Credit Corporation.

(5) "Fund" means the capital account to be established within each association, which account shall be known as the "No Net Cost Tobacco Fund".

(6) "Net Gains" means the amount by which total proceeds obtained from the sale by an association of a crop of quota tobacco pledged to CCC for a price support loan exceeds the principal amount of the price support loan made by CCC to the association on such crop, plus interest and charges.

(7) "Quota Tobacco" means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

(8) "To Market" means to dispose of quota tobacco by voluntary or involuntary sale, barter, exchange, gift between living persons, or consigning the tobacco to an association for a price support advance.

(b) *Establishing a No Net Cost Tobacco Fund.*

(1) Except as provided in paragraph (c) of this section, each association shall establish within the association a Fund. The Fund established by each association shall be kept and maintained separate from all other accounts of the association.

(2) The Fund shall be comprised of amounts contributed by producer-members as provided in paragraph (b)(3) of this section. The rate of contribution required to be made for each pound of quota tobacco marketed shall be determined by each association with the approval of the Secretary. The Secretary shall approve the amount of the contributions determined by an association from time to time under this paragraph only if the Secretary determines that such amount will result in an accumulation of a Fund adequate to reimburse CCC for any net losses which CCC may sustain under its loan agreements with the association, based upon reasonable estimates of the amounts which CCC will lend to the association under such agreements and the proceeds which will be realized from the sales of tobacco which are pledged to CCC by the association as security for price support loans.

(3) As a condition of eligibility for receiving price support, each producer of each kind of quota tobacco (other than

Burley quota tobacco with respect to the 1983 and subsequent crops) shall agree, with respect to all such kind of quota tobacco marketed from a farm for the current marketing year to contribute to the appropriate association for deposit in the association's Fund an amount determined by the association from time to time with approval of the Secretary. The farm operator shall be responsible for determining if all other producers on the farm agree to contribute to the Fund and may sign the agreement on their behalf. Such agreement shall be on a form prescribed by the Deputy Administrator and filed with the local county ASC committee prior to the issuance of a marketing card for such farm. With respect to kinds of tobacco for which poundage quotas are in effect, any producer who does not agree to contribute to the Fund may market his proportionate share of the farm marketing quota by use of a marketing card stamped "No Price Support." After the first marketing of tobacco from the farm has been made by use of a "No Price Support" marketing card issued to any farm operator or producer who declined to contribute to the Fund, such farm operator or producer shall not be eligible for price support for the remainder of the current marketing year.

(4) Beginning with the 1983 and subsequent crops, as a condition of eligibility for price support for any marketing year of any three-year period for which marketing quotas are in effect (other than the period applicable to the 1982 crop), each producer of Burley quota tobacco shall (i) agree not later than a date established by the Secretary preceding the beginning of the first marketing year of such three-year period to contribute to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary in each of the marketing years in such three-year period and (ii) file such agreement as prescribed in paragraph (b)(3) of this section. If during any such three-year period there is a new farm operator for an old Burley tobacco farm or there is a new farm operator as the result of a new Burley tobacco farm, the successor operator of the old Burley tobacco farm or the farm operator of the new farm shall agree, as a condition of eligibility for receiving price support, to contribute to the account in any remaining year in such three-year period and shall file such agreement as is prescribed in paragraph (b)(3) of this section.

(5) Effective for the 1983 and subsequent crops, each owner and

operator of any Flue-cured tobacco farm that leases and transfers all or any part of the farm's marketing quota or acreage allotment to another farm shall be required to contribute to the Fund. The amount of such contribution for the quantity of tobacco from each crop represented by such lease shall be the same amount as the contribution required of producers of Flue-cured tobacco determined under paragraph (b)(3) of this section. The contribution shall be collected prior to or at the time of approval of the lease by the county ASC committee. Upon receipt of the contribution, the association shall issue such owner and operator capital stock or a capital certification as provided in paragraph (b)(9) of this section.

(6) All contributions shall, insofar as practicable, be deposited immediately into the association's Fund. The Fund shall be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that CCC, under its loan agreements with the association with respect to 1982 and subsequent crops of quota tobacco, will suffer no net losses (including, but not limited to recovery of the amount of loans extended to cover the overhead costs of the association) after any net gains are applied to net losses of CCC under paragraph (f)(1) of this section.

(7) The association may invest the monies in the Fund in such manner as the Secretary may approve and the interest or other earnings on such investment shall become a part of the Fund.

(8) If the Secretary determines that the amounts in the Fund, or the net gains which accrue from the sale of loan tobacco, exceed the amount necessary to reimburse CCC for any net losses which CCC may sustain under its loan agreements with the association, such excess: (i) In the case of an association making price support available to producers of quota tobacco other than Burley tobacco, will be released to the association by CCC and may be devoted to other purposes by the association, and (ii) in the case of an association making price support available to producers of Burley tobacco, will be released to the association by CCC and may be distributed, as determined by the association, to the producer-members of the association as a capital distribution or net gain distribution.

(9) Producers making contributions to the Fund shall: (i) In the case of quota tobacco marketed other than by consignment to an association for a price support advance, receive from the association capital stock or, if the association does not issue such stock, a

capital certificate having a par value or face amount, respectively, equal to the contribution; and (ii) in the case of quota tobacco consigned by the producer to an association for a price support advance, receive from the association a qualified per unit retain certificate, as defined in section 1388(h) of the Internal Revenue Code, having a face amount equal to the amount of the contribution and representing an interest in the association's Fund.

(c) Establishing a No Net Cost Tobacco Account.

(1) Notwithstanding paragraph (b) of this section, the Secretary shall, upon the request of any association (except Flue-cured), and may, if the Secretary determines, after consultation with such association, that the accumulation of the Fund for such association is, and is likely to remain, inadequate to reimburse CCC for net losses which CCC may sustain under its loan agreement with such association: (i) Continue to make price support available to producers through such association in accordance with loan agreements entered into between CCC and such association; (ii) establish and maintain a No Net Cost Tobacco Account for such association in lieu of the No Net Cost Tobacco Fund.

(2) If an Account is established for an association under this paragraph, any amount in the Fund which is established within such association in accordance with paragraph (b) of this section shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that such amount shall, to the extent necessary, first be applied or used for the purpose thereof as prescribed in such paragraph (b).

(3) Any Account established for an association shall be established within CCC and shall be comprised of amounts paid by producers in accordance with paragraph (c)(4) of this section. The Secretary shall determine and adjust from time to time, in consultation with such association, the amount of the marketing assessment which shall be imposed, as a condition of eligibility for price support with respect to each pound of the kind of tobacco which is marketed by a producer from a farm within such association's administrative area. The amount of such assessment shall be equal to an amount which, when collected, will result in an accumulation of an Account for such association adequate to reimburse CCC for any net losses which CCC may sustain under its loan agreements with such association. Such amount shall be based on reasonable estimates of the amounts which CCC will lend to such association under such agreements and the proceeds

which will be realized from the sales of the kind of tobacco involved which are pledged to CCC by such association as security for price support loans.

(4) If an Account is established for an association under this paragraph, the Secretary shall require as a condition of eligibility for price support that each producer of a kind of tobacco involved whose farm is within such association's administrative area must agree, with respect to all such kind of tobacco marketed by the producer from the farm in the current marketing year, to pay to CCC, for deposit in such association's Account, marketing assessments as determined under paragraph (c)(3) of this section. The farm operator shall be responsible for determining if all other producers on the farm agree to pay marketing assessments to the Account and may sign the agreement on their behalf. Such agreement shall be on a form prescribed by the Deputy Administrator and filed with the local county ASC committee prior to the issuance of a marketing card for such farm. With respect to kinds of tobacco for which poundage quotas are in effect, any producer who does not agree to pay assessments to the Account may market his proportionate share of the farm marketing quota by use of a marketing card stamped "No Price Support". After the first marketing of tobacco from the farm has been made by use of a "No Price Support" marketing card issued to any farm operator or producer who declined to pay marketing assessments, such farm operator or producer shall not be eligible for price support for the remainder of the current marketing year.

(5) Amounts contributed and deposited in the Account shall be used for the purpose of ensuring, insofar as practicable, that CCC under its loan agreements with an association, will suffer no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of an association), after any net gains are applied to net losses of CCC.

(6) If an Account is established under paragraph (c)(1) of this section, the loan agreement between CCC and an association shall provide that if the Secretary determines that the amount in such Account or the net gains referred to in paragraph (f)(1) of this section exceed the amounts necessary for the purposes of this section, then the Secretary, in consultation with such Association, may suspend the payment and collection of marketing assessments under this section upon terms and conditions established by the Secretary.

(d) *Collection and Marketing Assessments and Contributions.*

(1) Any marketing assessment or contribution to be paid by a producer shall be collected from: (ii) The person who acquired the tobacco from such producer, except that an amount equal to such assessment or contribution may be deducted from the price paid such producer if such tobacco is marketed by sale; (i) a warehouseman or other agent who may deduct an amount equal to such assessment or contribution from the price paid to the producer; or (iii) a producer if such tobacco is marketed directly to any person outside the United States.

(2) Persons responsible for collecting the marketing assessments or contributions as required by this section shall remit such collections to the applicable Association or State ASCS office on the last day of the week in which such collections are due. A late payment charge shall be assessed with respect to any responsible person's obligation that is due but which is submitted late. Such charge shall be applied on the first day after the date such obligation was due and in 30 day increments thereafter until such obligation is paid. In case of partial payment of overdue amounts, the amount received will be applied first to the accrued late payment charge and then to the overdue amount. The late payment charge shall be an amount equal to one twelfth (rounded to the nearest one-hundredth of one percent) of the annual rate of interest announced by the CCC in accordance with the provisions of 7 CFR 1403.5.

(e) *Penalties for Marketing Certain Tobacco that is not Eligible for Price Support.* Effective for 1983 and subsequent crops of tobacco, the marketing of any kind of quota tobacco that is not eligible for price support because the farm operator or producer on the farm has not agreed to make contributions to the Fund or pay assessments to the Account as required by this section shall be subject to penalty at 75 percent of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year.

(f) *Loan Agreements.*

(1) Loan agreements between CCC and an association for which a Fund or Account has been established shall provide that CCC shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans. Such net gains will be used to offset any losses sustained by CCC under its loan agreements with the association for any of the 1982 and

subsequent crops of loan tobacco, or to reduce the outstanding balance of any price support loan made by CCC to the association under such agreements for 1982 and subsequent crops of tobacco, or for both such purposes.

(2) If any association which establishes a Fund or Account and enters into a tobacco loan agreement with CCC with respect to 1982 or subsequent crops of quota tobacco and fails or refuses to comply with these regulations or the terms of the tobacco loan agreement, the Secretary may terminate the loan agreement or provide that no additional loan funds may be made available thereunder to the association. In such event, the Secretary will make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to such association, through such other means as are authorized by the Agricultural Act of 1949, as amended, or the Commodity Credit Corporation Charter Act.

(3) Any association for which a fund is established under paragraph (b) of this section or an Account is established under paragraph (c) of this section and the loan agreement between CCC and such association is terminated, or if such association is dissolved, merges with another association, or otherwise ceases to operate, or if such Fund or Account terminates by operation of law, then amounts in such Fund or Account and the net gains referred to in paragraph (f)(1) of this section shall be applied to or disposed of in such manner as the Secretary may prescribe, except that they shall, to the extent necessary, first be applied to or used for the purposes thereof prescribed in this section.

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

Signed at Washington, D.C., on November 9, 1982.

Everett Rank,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-31285 Filed 11-15-82; 8:45 am]
BILLING CODE 3410-05-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 8908]

Encyclopaedia Britannica, Inc., et al.;
Prohibited Trade Practices, and
Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the Commission's order issued on March 9, 1976 (41 FR 17884), modified, Oct. 28, 1980 (45 FR 77419), by permitting the company's salespeople to use a business card to inform consumers of the reason for their visit, instead of the 3" x 5" card stating, "The purpose of this representative's visit is to solicit the sale of encyclopaedias," as previously required. Additionally, Britannica will no longer have to describe limits on potential earnings during initial interviews with prospective employees, but will be required to disclose, among other things, that these limitations exist, before an applicant accepts a sales position. The modified order also substitutes the original order's restrictions on Britannica's use of the words "free" and "regular" or "retail" price with FTC guidelines on those subjects. The modification also alters the definition of what is considered "truthful."

DATE: Final Order issued March 9, 1976. Modifying Order issued Oct. 5, 1982.

FOR FURTHER INFORMATION CONTACT: FTC/P, Randy Tritell, Washington, D.C. 20580. (202) 523-3868.

SUPPLEMENTARY INFORMATION: In the Matter of Encyclopaedia Britannica, Inc., a corporation, and Britannica Home Library Services, Inc., a corporation. Codification appearing at 41 FR 17884 remains unchanged.

List of Subjects in 16 CFR Part 13

Encyclopaedia sales, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Order Modifying Cease and Desist Order is as follows:

In the matter of Encyclopaedia Britannica, Inc., a corporation, and Britannica Home Library Services, Inc., a corporation; Docket No. 8908; order modifying cease and desist order.

The Commission issued its Final Order against respondents on March 9, 1976. The Order became effective on March 17, 1980, upon the United States Supreme Court's denial of respondents' petition for certiorari. On March 18, 1980, the Commission issued a stay of Paragraphs II.A, II.B, II.D, and II.E of the Order to allow the Commission to consider a petition from respondents to modify these provisions. On October 28, 1980, the Commission modified these four paragraphs.

On July 2, 1981, respondents filed another petition to reopen and modify the Order together with an application

for a stay of the Order pending the Commission's determination of the petition. The Commission denied the stay application on August 5, 1981. On October 9, 1981, respondents filed a supplemental memorandum in support of their request to reopen the proceedings and set aside or modify the Order. Staff and respondents entered into negotiations which resulted in an agreement on proposed modifications to the Order.

In a separate petition to reopen the proceedings filed October 27, 1981, respondents also sought a permanent modification of Paragraph II.D. of the Order. The petition presented persuasive evidence from a consumer survey that presentation of a business card before seeking admission to a customer's home or place of business would communicate the sales purpose of a representative's call as well as the 3" x 5" card now required by the provision.

The Commission has considered respondents' petitions and staff's recommendations and has determined that the public interest requires that parts of the Order should now be modified.

Therefore, it is ordered, that the following paragraphs be modified as follows:

I.

A. Representing, directly or by implication, either orally or in writing, that:

* * * * *

(2) Persons will be trained as management trainees, or for other positions of responsibility concerned with administrative office functions unless, in fact, a formal management training program is available to persons accepting employment on the basis of such representations; or misrepresenting, in any manner, the amount and type of training that will be given;

B. Misrepresenting, in any manner, the amount of income to be earned by any person or that may be earned by any person, the expenses that may be incurred by any person, the method of payment, or any condition or limitation imposed upon the compensation of any person.

C. Failing clearly and conspicuously to disclose in all advertising offering employment in any way involving door-to-door sales that respondent is recruiting persons for the sole purpose of soliciting or selling.

D. Failing clearly and conspicuously to provide, both orally and in writing, to any prospective sales employee at the initial face-to-face interview, and prior to executing any employment agreement

with any such person, the following information:

(1)(a) That respondent is recruiting persons for the sole purpose of soliciting or selling;

(b) That the products or services being sold are encyclopedias or services to be used in connection therewith, or in the event that encyclopedias or such related services are not being sold, the products and services being sold; and

(c) The basis for compensating persons so engaged;

(2) That conditions or limitations upon the receipt of compensation, if any, do in fact exist, together with an example of such a material condition or limitation, and that all such conditions and limitations will be stated in detail in an interview in the event an offer of employment is made to such person;

* * * * *

(4) That expenses will be incurred by such person in performing required duties, together with an example of such a material expense, and that all such expense items will be stated in detail in an interview in the event an offer of employment is made to such person;

(5) Deleted]

(6) That such soliciting or selling will be on an "in-home" basis, if such is the fact, or will include soliciting or selling on an "in-home" basis, if such is the fact.

E. Failing clearly and conspicuously to provide, both orally and in writing, to any prospective sales employee at an interview at which an offer of employment is made and prior to executing any employment agreement with any such person, the following information:

(1) A complete and detailed description of each condition and limitation imposed upon the receipt of any compensation;

(2) A complete and detailed description of any expense or expenses any such person may incur in performing the required duties;

(3)(a) The total number of sales employees employed by the office offering the position during the most recent calendar quarter, and (b) the number of sales employees employed by the office who, during the prior calendar quarter, received net earnings equivalent to or greater than the amount represented in the advertisement to which the prospective employee is responding; provided, however, that if the office has been in existence for less than three months or has fewer than five sales employees, respondents shall provide the information described above pertaining to the Division in which the office is located; provided further that

such information need not be furnished if the prospective sales employee contacts respondent more than ten days following the dissemination of the most recent advertisement that contains representations of earnings.

Respondent shall afford any prospective sales employee an adequate opportunity to review and consider the above information prior to requesting execution of any employment agreement.

F. Failing to furnish to persons at an interview when an offer of employment is made, and prior to executing any employment agreement with any such person, a copy of Paragraphs I, II, III and VI of this Order, together with a cover letter as set forth in *Appendix A*¹. Respondent shall afford any prospective sales employee an adequate opportunity to review and consider these provisions of the Order prior to requesting execution of any employment agreement.

II.

A. Representing, directly or by implication, in any advertisement or promotional material that solicits participation in any contest, drawing, or sweepstakes, or solicits any response to any offer of merchandise, service, or information, and that employs any return card, coupon, or other device to respond to such solicitation, that a person who replies as requested will not be contacted directly by a salesperson for the purpose of selling respondents' products, unless such is the fact. Such advertisements or promotional material shall comply with this Paragraph only if they meet the criteria set forth in *Appendix B*.

B. Failing, upon the written request of the Associate Director for Enforcement or his designee, to (1) submit any advertisement or promotional material or (2) test any such advertisement or promotional material, using the procedure set forth in *Appendix B*, to determine whether it complies with Paragraph II. A.

C. Failing to disclose clearly and conspicuously, during any telephone contact and before commencing any sales presentation to prospective customers, the fact that the individual making the call is either soliciting the sale, rental, or lease of publications, merchandise, or services for respondents, or is arranging for a sales solicitation to be made, and that if the prospective customer so agrees, respondents will send a salesperson to visit said prospect for the purpose of

soliciting the sale, rental, or lease of said publications, merchandise, or services.

D. Visiting the home or place of business of any person for the purpose of soliciting the sale, rental or lease of any publications, merchandise or service, unless at the time admission is sought into the home or place of business of such person, a business card of at least 2 inches by 3½ inches containing only the following information is presented to such person:

- (1) The name of the corporation;
- (2) The name of the salesperson;
- (3) The term "sales representative";
- (4) An address and telephone number at which the corporation or salesperson may be contacted;
- (5) The product or the corporation logo or identifying mark.

F. Representing, directly or by implication, either orally or in writing that:

- (1) Any person telephoning or visiting the home of any prospective purchaser is:
- (c) Telephoning or visiting the home of said prospect for the primary purpose of delivering or disseminating prizes, gifts, certificates, chances in any contest, drawing, sweepstakes, educational fund, or any other merchandise or item of chance.

* * * * *

(5) Any publication, merchandise, or service is being offered free, without cost, or is given as a bonus or otherwise to any purchaser of respondents' publications, merchandise, or services, pursuant to any agreement to purchase, rent, or lease any other publication, merchandise, service, or combination thereof from respondent, unless respondent complies with all of the terms of the Federal Trade Commission's "Guide Concerning Use of the Word 'Free' and Similar Representations," 16 CFR Part 251, which is hereby incorporated into this Order, and with any modifications or changes that are made to this Guide. All of the provisions of the aforesaid Guide shall be construed as mandatory and binding upon the respondents.

* * * * *

I. Representing to any person, directly or by implication, either orally or in writing that:

- (1) Any price is the retail, regular, usual or words of similar import or effect, price for any publication in any binding, merchandise or service, unless such price is an actual, bona fide price for which each such publication has been openly and actively offered for sale in the recent and regular course of

business for a reasonably substantial period of time.

(2) Any price is the retail, regular, usual, or words of similar import or effect, price for any set of publications in any binding and in combination with any other publication, merchandise or service, unless such price is an actual, bona fide price for which each such publication has been openly and actively offered for sale in the recent and regular course of business for a reasonably substantial period of time.

O. [Deleted]

P. [Deleted]

It is further ordered that the foregoing modifications shall be effective upon service of this Order upon respondents.

By direction of the Commission, Commissioner Bailey voting in the negative.
Carol M. Thomas,
Secretary.

Issued: October 5, 1982.

Appendix B

This Appendix sets forth the methodology respondents shall employ to determine whether advertisements or promotional materials represent that a person who replies as requested may be contacted directly by a salesperson for the purpose of selling respondents' products, and the criteria for determining whether such advertisements or promotional materials comply with Paragraph II.A.

1. *Format*—Respondents shall test the comprehension level of advertisements or promotional material by conducting a mall-intercept test, using the questionnaire attached hereto as exhibit 1.

2. *Sample Size*—The sample shall consist of at least 150 subjects.

3. *Demographics*—Test subjects must:

- (a) Be between 25 and 49 years of age;
- (b) Have at least one child fifteen years of age or younger living at home;
- (c) Have household incomes of at least \$15,000 per year; *provided* that, upon respondents' request, the Division of Enforcement shall increase this figure by increments of \$5,000 whenever the percentage of households earning at least the requested amount equals or exceeds the percentage of households that, according to the 1980 United States Census, have household incomes of at least \$15,000 per year. The data for future changes shall be based on the most recently published edition of the *Statistical Abstract of the United States*.

4. *Location of Markets*—The interviewing will be conducted in four geographically dispersed markets. The same central location facilities will be used wherever possible. If it is

¹ Appendix A was published in the Federal Register of March 9, 1976, (41 FR 17884).

necessary to change any interviewing facility, the new facility shall have demographic characteristics similar to those of the facility it is replacing.

5. *Criteria for acceptability of new coupon copy*—New coupon copy shall comply with Paragraph II.A if at least seventy-five percent of the test subjects answer "yes" to question 6(b) of the questionnaire (exhibit 1).

Modifications to this Appendix, including the questionnaire, may be made upon a request by respondents and the approval of the Associate Director for Enforcement.

Exhibit 1

Study: Coupon Comprehension Study.
Market: Cleveland ()-1, New York ()-2
Boston ()-3, Kansas City ()-4

Card:
Interviewer's Name: _____
Date: _____
Time Interview Begins: _____

Hello, I'm _____ from _____. Today we are conducting a survey among men and women between the ages of 25 and 49 years of age.

1 Please tell me your approximate age.
(Read List)

- Under 25, Terminate.
- 25 to 29 years ()-1.
- 30 to 34 years ()-2.
- 35 to 39 years ()-3.
- 40 to 44 years ()-4.
- 45 to 49 years ()-5.
- 50 years and older, Terminate.

Refused, Terminate.
2. Do you have any children living at home 15 years of age or younger?
Yes ()
No () Terminate.

3. What are the ages of your children who live at home? (Check as many as apply)

- 16 years or above ()-1.
- 12 years to 15 years ()-2.
- 8 years to 11 years ()-3.
- 4 years to 7 years ()-4.
- 3 years or under ()-5.

4a. Is your total family income:
\$15,000 and above ()
Below \$15,000 Terminate.
Refused, Terminate.

4b. Sex:
Male ()-1.
Female ()-2.

(Hold up ad in a manner that permits respondent to see it—color coded with questionnaire—and say:)

"Suppose you saw this ad, and the coupon that was attached to it".

(Hand coupon card—COLOR CODED WITH QUESTIONNAIRE—TO RESPONDENT AND SAY:)

"Now, using your imagination for a moment, assume you want to fill in and return this coupon with would be part of this ad for ENCYCLOPAEDIA BRITANNICA".

"Read this coupon as though you were interested enough to fill it in".

(Do not rush respondent. Take coupon card from respondent when he/she has finished reading.)

Be sure test coupon card and ad are out of sight before asking:

5a. Based on your reading of this coupon, what would you expect to happen if you send in the coupon? (Probe fully and clarify)

- (14) _____
- (15) _____
- (16) _____
- (17) _____

5b. What else would you expect to happen? (Probe fully and clarify)

- (18) _____
- (19) _____
- (20) _____
- (21) _____

5c. Is there anything else you would expect to happen?

- (22) _____
- (23) _____
- (24) _____
- (25) _____

"Now, I'd like to ask you a few more questions".

(Interviewer: Start at the "X" marked question and proceed to next one, and then back to the first one, etc.)

() 6a. Based on your reading of the coupon, would you expect to receive a free booklet, if you send in the coupon? (26)

- Yes..... ()-1
- No..... ()-2
- Don't Know (volunteered)..... ()-3

() 6b. Based on your reading of the coupon, would you expect a sales representative for Encyclopaedia Britannica to contact you, if you send in the coupon? (27)

- Yes..... ()-1
- No..... ()-2
- Don't Know (volunteered)..... ()-3

() 6c. Based on your reading of the coupon, would you expect to get a free book rack, if you send in the coupon? (28)

- Yes..... ()-1
- No..... ()-2
- Don't Know (volunteered)..... ()-3

() 6d. Based on your reading of the coupon, would you expect to get a free globe of the world, if you send in the coupon? (29)

- Yes..... ()-1
- No..... ()-2
- Don't Know (volunteered)..... ()-3

If yes to Q. 6b

7. If someone sent in the coupon, how likely do you think it would be that a sales representative from Encyclopaedia Britannica would contact that person? (Read first four responses only) (30)

- Very Likely..... ()-1
- Fairly Likely..... ()-2
- Not Too Likely..... ()-3
- Not Likely At All..... ()-4
- Don't Know (volunteered)..... ()-5

Thank respondent for his/her cooperation.

Respondent's Name: _____
Address: _____
City/State/Zip: _____
Telephone #: _____
(Area Code) _____
Time interview ended: _____
Validated by: _____
(31) _____
(32) _____
(33) _____
(34) _____

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration
21 CFR Parts 177 and 178

[Docket No. 82F-0170]

Indirect Food Additives: Polymers; Hexamethylenebis (3,5-Di-Tert-Butyl-4-Hydroxyhydrocinnamate)

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

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of hexamethylenebis (3,5-di-tert-butyl-4-hydroxyhydrocinnamate) as an antioxidant and stabilizer for polyoxymethylene homopolymers intended for repeated use in contact with food. This action responds to a petition filed on behalf of Ciba-Geigy Corp.

DATES: Effective November 16, 1982; objections by December 16, 1982.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of June 25, 1982 (47 FR 27614), FDA announced that a food additive petition (FAP 2B3623) had been filed on behalf of Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, New York, 10532, proposing that Parts 177 and 178 of the food additive regulations (21 CFR Parts 177 and 178) be amended to provide for the safe use of hexamethylenebis (3,5-di-tert-butyl-4-hydroxyhydrocinnamate) as an antioxidant and stabilizer for polyoxymethylene homopolymers intended for repeated use in contact with food.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive is safe and that § 178.2010 of the food additive regulations should be amended to permit the use of hexamethylenebis (3,5-di-tert-butylhydrocinnamate). FDA is also making editorial revisions in § 177.2480(b)(1) to list permitted stabilizers in alphabetical order. These revisions clarify the regulation but do not change it substantively.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will remove from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 177

Food additives, Polymeric food packaging.

21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

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

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. Part 177 is amended by revising § 177.2480(b)(1) to read as follows:

§ 177.2480 Polyoxymethylene homopolymer.

* * * * *

(b) * * *

(1) *Stabilizers.* The homopolymer may contain one or more of the following stabilizers. The total amount of stabilizers shall not exceed 1.9 percent of homopolymer by weight, and the quantity of individual stabilizer used shall not exceed the limitations set forth below:

Substances	Limitations
Hexamethylenebis(3,5-di- <i>tert</i> -butyl-4-hydroxyhydrocinnamate) (CAS Reg. No. 35074-77-2).	At a maximum level of 1 percent by weight of homopolymer. The finished articles shall not be used for foods containing more than 8 percent alcohol.
2,2'-Methylenebis(4-methyl-6- <i>tert</i> -butylphenol).	At a maximum level of 0.5 percent by weight of homopolymer.
Nylon 66/610/6 terpolymer, respective proportions of nylons polymers by weight are: 3/2/4.	At a maximum level of 1.5 percent by weight of homopolymer.
Nylon 612/6 copolymer (CAS Reg. No. 51733-10-9), weight ratio 6/1.	At a maximum level of 1.5 percent by weight of homopolymer.
Tetrakis[methylene(3,5-di- <i>tert</i> -butyl-4-hydroxyhydrocinnamate)] methane.	At a maximum level of 0.5 percent by weight of homopolymer.

* * * * *

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

2. Part 178 is amended in § 178.2010(b) by alphabetically adding a new item in the list of substances to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
Hexamethylenebis (3,5-di- <i>tert</i> -butyl-4-hydroxyhydrocinnamate) (CAS Reg. No. 35074-77-2).	As provided in § 177.2480 (b)(1) of this chapter.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 16, 1982, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual

information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective November 16, 1982.

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

Dated: November 8, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-31288 Filed 11-15-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 436

[Docket No. 82N-0136]

Antibiotic Drugs; Updating and Technical Changes; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting footnotes in the May 25, 1982 (47 FR 22513) final rule that updated and made noncontroversial technical changes in several antibiotic drug regulations that provide for certification of antibiotic and antibiotic-containing drugs for human use.

EFFECTIVE DATE: May 25, 1982.

FOR FURTHER INFORMATION CONTACT:

Agnes Black, Federal Register Writer (HFC-11) Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 82-14140 appearing at page 22513 in the Federal Register of Tuesday, May 25, 1982, the footnotes in the table in § 436.105(b) (21 CFR 436.105(b)) are corrected to read as follows:

§ 436.105 Microbiological agar diffusion assay.

* * * * *

(b) * * *

Antibiotic	Working standard stock solutions				Standard response line concentrations:		
	Drying conditions (method number as listed in § 436.200)	Initial solvent	Diluent (solution number as listed in § 436.101(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration (days)	Diluent	Final concentrations, units or micrograms of antibiotic activity per milliliter
Sisomicin ^a	Not dried ^b		3	1	14	3	0.064, 0.080, 0.100, 0.125, 0.156 µg

^aWorking standard should be stored below minus 20° C under an atmosphere of nitrogen. Sisomicin is hygroscopic and care should be exercised during weighing.

^bFurther dilute aliquots of the working standard stock solution with dimethylsulfoxide to give concentrations: 64.0, 80.0, 100, 125, and 156 micrograms per milliliter.

^cWeigh a separate portion of the working standard and determine the loss on drying by the method described in § 436.200(c) of this chapter. Use this value to determine the anhydrous content of the working standard.

Dated: November 4, 1982.

James C. Morrison,

Acting Assistant Director for Regulatory Affairs.

[FR Doc. 82-31167 Filed 11-16-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 505, 510, and 558

[Docket No. 76N-0002]

Diethylstilbestrol; Conforming Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing conforming amendments to the final rule that removed regulations providing for the use of diethylstilbestrol in the feed of cattle and sheep and as a subcutaneous implant. This document removes obsolete references to diethylstilbestrol that inadvertently were not included in that final rule.

EFFECTIVE DATE: November 16, 1982.

FOR FURTHER INFORMATION CONTACT: Robert S. Brigham, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 6, 1979 (44 FR 39618), FDA announced the withdrawal, after an evidentiary hearing, of the approval of new animal drug applications providing for diethylstilbestrol implants and liquid and dry premixes for use in cattle and sheep. Concurrently, in the same issue of the Federal Register (44 FR 39387), FDA issued a final rule revoking § 522.640 *Diethylstilbestrol* and § 558.225 *Diethylstilbestrol*, and amending § 558.76 *Bacitracin methylene disalicylate* and § 558.78 *Bacitracin, zinc* to delete cross-references to use of diethylstilbestrol in combination with

such bacitracins. In the same issue of the Federal Register (44 FR 39388), the agency revoked § 556.190

Diethylstilbestrol which provided an official regulatory method for diethylstilbestrol residues in edible tissues of animals treated with diethylstilbestrol.

The basis for the Commissioner of Food and Drugs' decision to withdraw approval of new animal drug applications for diethylstilbestrol implants and liquid and dry feed premixes for use in cattle and sheep was explained in a document dated June 29, 1979, and published in the Federal Register of September 21, 1979 (44 FR 54852). This notice constituted a finding of fact of the Commissioner of Food and Drugs and the conclusions of law on the issues in a formal evidentiary public hearing. In the notice, the agency also explained its reasons for revoking § 556.190. In the Federal Register of July 20, 1979 (44 FR 42679 and 42680), the effective date of the revocation of the regulations cited above was stayed. Such revocation was further stayed, until November 1, 1979, by publication in the Federal Register of August 3, 1979 (44 FR 45618). Because the stay of the effective date of revocation of the sections mentioned above providing for use of diethylstilbestrol in implants and in animal feed has expired, §§ 522.640, 558.225, and 558.190 have been revoked.

This document removes various provisions in the regulations pertaining to diethylstilbestrol that inadvertently were not included in previous publications in the Federal Register. Because the basic authority for use of diethylstilbestrol in implants and in animal feed has previously been revoked, there is at present no authority for use of diethylstilbestrol in animals. This final rule has no effect on use of diethylstilbestrol in animals other than to remove obsolete references to its use.

List of Subjects

21 CFR Part 505

Animal drugs, Labeling, Over-the-counter drugs.

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 505, 510, and 558 are amended as follows:

PART 505—INTERPRETIVE STATEMENTS RE: WARNINGS ON ANIMAL DRUGS FOR OVER-THE-COUNTER SALE

§ 505.10 [Amended]

1. Part 505 is amended: a. In § 505.10 *Animal drug warning and caution statements required by regulations* by removing the entry "Diethylstilbestrol for Sheep" and the paragraph following the entry.

§ 505.20 [Amended]

b. In § 505.20 *Recommended animal drug warning and caution statements* by removing the entry "Diethylstilbestrol in Animal Feeds" and the paragraph following the entry.

PART 510—NEW ANIMAL DRUGS

§ 510.515 [Amended]

2. Part 510 is amended in § 510.515 *Animal feeds bearing or containing new animal drugs subject to the provisions of section 512(n) of the act* by removing and reserving paragraph (b)(26), (28), (38), and (52).

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. Part 558 is amended:

§ 558.128 [Amended]

a. In § 558.128 *Chlortetracycline* by removing and reserving paragraph (e)(4)(vi).

§ 558.450 [Amended]

b. In § 558.450 *Oxytetracycline*, Table 2 in paragraph (e)(1) is amended by removing the entry "Diethylstilbestrol 10" and by removing the column heading "Combination in milligrams per head per day".

Effective date. November 16, 1982.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)))

Dated: November 8, 1982.

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

[FR Doc. 82-31279 Filed 11-15-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs not Subject to Certification; Dithiazanine Iodide Tablets and Powder; NAS/NRC Update

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations for dithiazanine iodide tablets and dithiazanine iodide powder to indicate those conditions of use for which approvals for identical products need not include certain types of effectiveness data. These conditions of use were classified as effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the products. In lieu of certain effectiveness data, approval may require submission of bioequivalence or similar data.

EFFECTIVE DATE: November 16, 1982.

FOR FURTHER INFORMATION CONTACT: Terence Harvey, Bureau of Veterinary Medicine (HFV-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: FDA published the NAS/NRC review of these products in the Federal Register of February 6, 1969 (34 FR 1783). The notice stated that the Academy concluded, and FDA concurred, that the products were effective canine anthelmintics.

The announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and FDA, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Elanco Products Co., a division of Eli Lilly & Co., 740 S. Alabama St., Indianapolis, IN 46206 (formerly Corvel, Inc., a division of Eli Lilly & Co.), responded to the notice by submitting supplemental NADA's (11-531V and 11-674V, for tablet and powder forms, respectively) providing current information covering manufacturing and controls and revising the labeling for the

safe and effective use of the products in dogs as anthelmintics. The supplemental applications were approved by a regulation published in the Federal Register of September 21, 1972 (37 FR 19611). The regulation reflecting this approval established a new section for the drug in tablet form (21 CFR 135c.82, recodified at 21 CFR 520.763a), and a new section for the drug in the powder form (21 CFR 135c.83, recodified at 21 CFR 520.763b). The new sections did not specify those conditions of use that were NAS/NRC approved.

FDA amends the regulations to indicate those conditions of use which were NAS/NRC reviewed and for which approval for identical products need not include certain types of effectiveness data required for approval by § 514.111(a)(5)(vi) of the new animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

The agency has determined pursuant to 21 CFR 25.24 (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1 (a)(1) of the Order.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended as follows:

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

1. In § 520.763a, by adding new paragraph (e) to read as follows:

§ 520.763a Dithiazanine iodide tablets.

* * * * *

(e) Use for treating dogs for large roundworms, hookworms, whipworms, and strongyloides as provided for in this

section has been NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

2. In § 520.763b, by adding new paragraph (e) to read as follows:

§ 520.763b Dithiazanine iodide powder.

* * * * *

(e) Use for treating dogs for large roundworms, hookworms, whipworms, and strongyloides as provided for in this section has been NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

Effective date. November 16, 1982.

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

Dated: November 4, 1982.

Robert A. Baldwin,
Associate Director for Scientific Evaluation.

[FR Doc. 82-31280 Filed 11-15-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 219

[Docket No. R-82-1034]

Flexible Subsidy Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: Section 329C(1) of the Housing and Community Development Amendments of 1981 amended Section 201(f)(1) of the 1978 amendments to authorize the Secretary to include in the flexible subsidy for a troubled multifamily housing project an amount necessary to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary. This rule will incorporate this statutory change into the Department's regulations for the flexible subsidy program.

EFFECTIVE DATE: November 16, 1982.

COMMENT DUE DATE: Comments must be received on or before January 17, 1983.

ADDRESS: Interested persons are invited to submit written comments regarding

this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-5654. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The flexible subsidy program is authorized by Section 201 of the Housing and Community Development (HCD) Amendments of 1978. The flexible subsidy provides assistance to restore or maintain the financial soundness, to assist in the improvement of management and to maintain the low- to moderate-income character of certain troubled multifamily housing projects. Section 201 is incorporated, and implemented, by Part 219 of the Department's regulations.

Section 201(f)(1) of the statute and § 219.120 of the regulations prescribe uses for which flexible subsidy may be provided; the amount of assistance is limited to that needed for these purposes. Section 329C(1) of the HCD Amendments of 1981 amended section 201(f)(1) to authorize the Secretary to include in the flexible subsidy an amount necessary to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary. This rule will amend § 219.120 of the regulations to incorporate this statutory change.

This interim rule is needed to amend the Department's regulations for the flexible subsidy program to conform with the statutory change made by Section 329C(1) of the 1981 HCD Amendments. In addition, energy-related costs represent an increasingly larger share of the total project operating expense and as such have a direct impact on the project's overall stability. The Secretary is now authorized to provide assistance to upgrade the project with cost-saving energy conservation measures. For these reasons, the Department has determined that notice and prior public procedure are unnecessary and contrary to the public interest. However, the Department is providing 60 days for

submission of public comment on this amendment. All relevant comments and suggestions will be considered in the adoption of a final rule.

The Department has also determined that, for the reasons stated above, good cause exists for making this interim rule effective less than 30 days after its publication in the *Federal Register*. In addition, the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs, and the House Committee on Banking, Finance and Urban Affairs have, upon the Secretary's request, granted waivers of the requirements of section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) which provides for a delay in effectiveness of rules for a period of 30 calendar days of continuous session of Congress after publication, unless so waived. Accordingly, the interim rule is being published for immediate effect.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule is not listed in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48422) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

(The Catalog of Federal Domestic Assistance program number and title are 14.164, Operating Assistance for Troubled Multifamily Housing Projects)

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this

rule does not have a substantial economic impact on a substantial number of small entities. This rule merely expands the uses for which flexible subsidy may be provided.

List of Subjects in 24 CFR Part 219

Grant programs—Housing and Community Development, Low and moderate income housing, Rent subsidies.

PART 219—FLEXIBLE SUBSIDY PROGRAM

PART 219—[AMENDED]

Accordingly, 24 CFR Part 219 is amended by adding § 219.120(e) to read as follows:

§ 219.120 Use and amount of assistance.

(e) In addition to the amounts authorized by paragraphs (a) through (d) of this section, the Secretary may also include in the amount of assistance an amount determined by the Secretary to be necessary to carry out a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary.

(Sec. 201(g), Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(g)); Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

Dated: September 21, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

[FR Doc. 82-31282 Filed 11-15-82; 8:45 am]

BILLING CODE 4210-27-M

24 CFR Part 885

[Docket No. R-82-1014]

Loans for Housing for the Elderly or Handicapped; Eligibility of Acquired Existing Housing for the Non-Elderly Handicapped

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: For group homes meeting the housing needs of the nonelderly handicapped, this rule would expand the current definition of "development cost" in Section 885.5 of the regulations to include the cost of acquiring existing housing and related facilities, and the cost of its rehabilitation, alteration, conversion or improvement, including

the moderate rehabilitation thereof. Other changes have been made to conform with the new definition of "development cost". This rule implements a change made by the Housing and Community Development Act of 1980.

EFFECTIVE DATE: November 16, 1982.

COMMENT DUE DATE: January 3, 1982.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Communications should refer to the above docket number and title. A copy of each communication submitted will be available at the above address for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank D. Brown, Office of Multifamily Housing Development, Room 6128, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, Telephone (202) 755-5720. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department is amending Section 885.5 and other portions of 24 CFR Part 885 to implement the change made by Section 319 of the Housing and Community Development Act of 1980 (the Act) in the current definition of "development cost" contained in Section 202(d)(3) of the Housing Act of 1959. The changes in the regulations will permit the acquisition of existing housing and related facilities, with or without moderate rehabilitation, for the purpose of providing group homes for the nonelderly handicapped.

Background

Section 202(d)(1) of the Housing Act of 1959, as amended, defines "housing" to mean "structures suitable for dwelling use by elderly or handicapped families which are (A) new structures, or (B) provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for proposed dwelling use by such families." Section 202(d)(3) limited "development cost", however, to the "cost of construction of housing and of other related facilities, the cost of movables necessary to the basic operation of the project, as determined by the Secretary, and of the land on which it is located, including necessary site improvement." Section 319 added the following new sentence at the end of Section 202(d)(3):

"In the case of housing to meet the needs of the handicapped (primarily

nonelderly) persons, such term also means the cost of acquiring existing housing and related facilities, the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation, thereof, and the cost of the land on which the housing and related facilities are located."

As a result of the previous statutory definition of "development cost", current Section 202 regulations (24 CFR Part 885) limit the definition of "development cost" to include only the cost of new construction or substantial rehabilitation, and do not include the cost of acquiring existing housing and related facilities which require less than substantial rehabilitation.

However, since the implementation of the Housing and Community Development Act of 1974 amendments to Section 202, which for the first time, provided eligibility for the developmentally disabled under Section 202, many organizations developing housing for the handicapped (including the developmentally disabled) under this program have encountered considerable difficulty in finding or obtaining suitable vacant sites or existing housing in acceptable residential neighborhoods, whether for new construction or substantial rehabilitation. By authorizing the purchase of existing housing requiring little or no rehabilitation, the supply of eligible properties should be increased and processing time reduced. Community acceptance also should be enhanced, as few changes in the exterior physical appearance of such an acquired structure should normally occur in its conversion to a group home.

The Amendments to the Regulations

Only limited amendments to Part 885 of 24 CFR are needed to implement this statutory amendment. To reflect the policy change made by the Act, § 885.1(b) is being amended to authorize loans to finance the acquisition of existing housing and related facilities, and, if necessary, the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof. Given the emphasis on the nonelderly handicapped contained in the statutory amendment and the long-standing administrative determination that units for the elderly be designed to encourage and provide for independent living, this change in the regulations is limited to group homes for the nonelderly handicapped.

Acquisition With or Without Moderate Rehabilitation—A New Definition

A new definition of "acquisition with or without moderate rehabilitation" is being added to § 885.5 to limit the amount of rehabilitation that can qualify as moderate rehabilitation. Projects which require greater expenditures would have to meet the requirements for substantial rehabilitation projects. The term "acquisition with or without moderate rehabilitation" includes acquisition of existing housing and related facilities to be used as group homes for the nonelderly handicapped. The development cost for a group home may not exceed \$3,000 per unit, or 15 percent of the loan amount, whichever is greater, for the moderate rehabilitation thereof, including all expenditures for the rehabilitation, alteration, conversion or improvement of the housing and related facilities.

Changes in Current Definitions in § 885.5

The definition of "development cost" is being changed to include the cost of acquiring housing and related facilities, with or without moderate rehabilitation. The definition of "housing and related facilities" is being changed similarly. Since group homes are intended to provide a home-like environment, the range and scope of related facilities would be reduced considerably as compared to typical apartment developments.

The new definition also limits acceptable acquisitions to housing which was completed or first occupied, whichever is later, at least three years prior to the date of the Section 202 application. This is intended to assure that the acquired structures were not developed outside HUD requirements with the intent at the outset to obtain refinancing under this program upon their completion.

Acquisitions Without Moderate Rehabilitation Not Subject to Davis-Bacon

Section (c)(3) of Section 202 of the Housing Act of 1959, as amended, provides that all laborers and mechanics employed by contractors and subcontractors in the construction of housing assisted under this section shall be paid wages at rates not less than those prevailing for the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character. Accordingly, § 885.415(p) currently requires all Borrowers to submit a Contractor's and Subcontractor's Certification Concerning Labor

Standards and Prevailing Wage Requirements prior to initial loan closing. However, projects involving acquisition without rehabilitation need not comply with the requirements of certification concerning labor standards and prevailing wage requirements contained in § 885.415(p), since no construction would be involved.

Other Amendments to the Regulations

Minor amendments are also being made to § 885.210(a)(13), to refer to the Borrower's legal authority to acquire the project site, with or without moderate rehabilitation, and to § 885.210(a)(23), to require that the information required at the fund reservation stage for projects for the elderly by § 885.210(a)(23) also will be required for projects for the nonelderly handicapped as soon as the site is specified, and to include acquisitions under the § 885.210(a)(23)(iv) requirement for permissibility under zoning regulations. Section 885.220(d)(5) is amended to require that field office environmental reviews be in compliance not only with the National Environmental Policy Act of 1969, but also with the related authorities cited in 24 CFR Part 50. A new paragraph also is being added to § 885.220(d)(5) to assure compliance with requirements for financial assistance in areas identified by the Federal Emergency Management Agency as having special flood hazards. Conforming amendments are also being made to include acquisition with or without moderate rehabilitation under § 885.215(n), under § 885.230 and under § 885.425, and to include acquisitions with rehabilitation in § 885.415 and § 885.420.

Fair Market Rents

Although somewhat lower total costs can be expected in projects involving acquisitions with or without moderate rehabilitation as compared to new construction or substantial rehabilitation projects, savings would be minimal with regard to financing, operating and other costs. Accordingly, for projects acquired with or without moderate rehabilitation, the fair market rent is being established as 75 percent of the published fair market rent for new construction and substantial rehabilitation projects. For such acquisition projects, § 885.210 is being amended to require a statement by the Borrower that gross rents will not exceed the applicable fair market rents (75 percent of published rents for new construction and substantial rehabilitation projects) by more than the amount permitted under § 880.204(b)(1) or § 881.204(b)(1). The references to the

new construction and substantial rehabilitation regulations in § 885.210 are being changed to §§ 880.204(b)(1) and 881.204(b)(1) because those provisions have been revised and renumbered.

Cost Limits Per Family Unit

Although no changes in cost limits per family unit are proposed for acquisition with or without moderate rehabilitation, it is anticipated that with gross rents limited to 75 percent of the FMRLs for New Construction and Substantial Rehabilitation, costs per family unit in acquisitions with or without moderate rehabilitation would have to be substantially lower than for projects where the estimated cost of the rehabilitation is at least 25 percent of the estimated value of the project after rehabilitation to be economically feasible.

The Secretary has determined that this interim rule is noncontroversial in nature and that it is in the public interest to make the amendments contained in this rule effective for applicants who responded to the Fiscal Year 1982 Invitation for Section 202 applications. Offering an opportunity for public comment prior to the effective date of this rule would cause a significant delay in implementation of the amendments. Since the application period ended on June 30, 1982, the Secretary has determined that providing an opportunity for a prior public comment period would be impracticable and contrary to the public interest and that there is good cause for publishing this amendment as an interim rule, without a prior public comment period. However, interested persons are invited to submit comments for a 45-day period following publication of the interim rule, and all comments received will be considered by HUD in the development of a final rule on this subject.

In addition, the Chairman and Ranking Minority Members of the Senate Committee on Banking, Housing, and Urban Affairs, and the House Committee on Banking, Finance and Urban Affairs have, upon the Secretary's request, granted waivers of the requirements of Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)), which provides for a delay in effectiveness of rules for a period of 30 calendar days of continuous session of Congress after publication, unless so waived. Accordingly, the interim rule is being published for immediate effect.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the

National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule is listed at 47 FR 48426 as item H-40-81 in the Department's Semiannual Agenda of Regulations published on October 28, 1982, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

(The Catalog of Federal Domestic Assistance program number is 14.157)

List of Subjects in 24 CFR Part 885

Aged, Grant programs, Housing and community development, Handicapped, Loan programs, Housing and community development, Low- and moderate-income housing.

PART 885—[AMENDED]

Accordingly, the Department is amending 24 CFR Part 885 as follows:

1. By revising § 885.1(b) to read as follows:

§ 885.1 Purpose and policy.

(b) *General Policy.* A loan made pursuant to this Part shall be used to finance the construction or the substantial rehabilitation of residential projects for the elderly or the handicapped, or for the acquisition of existing housing and related facilities, including the moderate rehabilitation thereof for group homes for the nonelderly handicapped. Consistent with Congressional directives stated in the Housing and Community Development Act of 1977, these

regulations have been developed to consolidate the application requirements of both Section 202 and Section 8. Therefore, projects which meet the requirements of the Section 202 program shall be deemed to have met the requirements for housing assistance payments under the Section 8 Housing Assistance Payments Program as provided in the U.S. Housing Act of 1937, as amended.

2. By adding a definition of "acquisition with or without moderate rehabilitation" to § 885.5, Definitions, to read as follows:

§ 885.5 Definitions.

As used in this part—

Acquisition With or Without Moderate Rehabilitation means acquisition of existing housing and related facilities to be used as group homes for the nonelderly handicapped, which may include in the development cost not more than \$3,000 per unit, or not more than 15 percent of the loan amount, whichever is greater, for the moderate rehabilitation thereof, including expenditures for the rehabilitation, alteration, conversion, or improvement of the housing and related facilities.

3. By revising the definition of "Construction" contained in § 885.5, to read as follows:

Construction means the erection or substantial rehabilitation of structures for Housing and Related Facilities. In the case of group homes for the nonelderly handicapped, this term also means acquisition of existing housing with or without moderate rehabilitation.

4. By revising the definition of "Development Cost" contained in § 885.5, to read as follows:

Development Cost means the cost of construction or substantial rehabilitation of Housing and Related Facilities, and of the land on which they are located, including necessary site improvements and such other expenses as may be determined by the Assistant Secretary to be properly attributable to the capital cost of the construction or substantial rehabilitation of development of the Housing and Related Facilities. In the case of group homes for the nonelderly handicapped, this term also means the cost of acquiring existing housing and related facilities and the cost of rehabilitation, alteration, conversion or improvement, including the moderate rehabilitation thereof.

5. By revising the definition of "Housing and Related Facilities" contained in § 885.5, to read as follows:

Housing and Related Facilities means rental or cooperative housing structures constructed or substantially rehabilitated as permanent residences for use by elderly or handicapped families, or acquired, with or without moderate rehabilitation, for use by nonelderly families as group homes, and includes structures suitable for use by families residing in the project or in the area such as cafeterias or dining halls, community rooms or buildings, or other essential service facilities. In the case of acquisitions with or without moderate rehabilitation, at least 3 years must have elapsed from the later of the date of completion of the project or beginning of occupancy to the date of the application for a Section 202 fund reservation. "Housing and Related Facilities" does not include nursing homes, hospitals or intermediate and transitional care facilities.

6. By revising § 885.210(a)(13), the introduction to paragraph (a)(23), and paragraph (a)(23) (iv) and (vii), to read as follows:

§ 885.210 Contents of applications.

(a) * * *
(13) Satisfactory evidence that the Borrower has the necessary legal authority to finance, acquire (with or without moderate rehabilitation), construct or substantially rehabilitate and maintain the project, and to apply for and receive the proposed loan, that it meets any requirements as to corporate organization, and that it has authority to enter into such contract obligation and execute such security documents as may be required by HUD.

(23) In the case of projects to be developed for the elderly, the following specific information with respect to the proposed project (such information also is to be provided for projects proposed for the handicapped as soon as the site is specified):

(iv) Evidence that the proposed acquisition, construction or rehabilitation is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action to make the acquisition, construction or rehabilitation permissible and the basis for belief that such action will be completed successfully prior to the receipt of the conditional commitment for direct loan

financing (e.g., a summary of the results of any recent requests for rezoning on land in similar zoning classifications and the time required for such rezoning, preliminary indications of acceptability from zoning bodies, etc.).

(vii) A statement that gross rents (contract rents plus any utility allowance) will not exceed the applicable fair market rents by more than the amount allowed under Section 880.204(b)(1) or Section 881.204(b)(1). For new construction and substantial rehabilitation projects, the applicable fair market rents are those published in Part 888, Schedule A. For projects that are acquired with or without moderate rehabilitation for group homes for the nonelderly handicapped, the applicable fair market rents are 75 percent of the Schedule A fair market rents.

7. By revising the introductory paragraph of § 885.215 to read as follows:

§ 885.215 Limitation on numbers of units.

No organization shall participate as Sponsor, Co-Sponsor, or Borrower in the filing of an application or applications for a reservation of Section 202 funds in a single Region in a single fiscal year in excess of that necessary to finance the construction, substantial rehabilitation, or acquisition, with or without moderate rehabilitation, of 300 units of housing and related facilities.

8. By revising § 885.220(d)(5) to read as follows:

§ 885.220 Review of application for fund reservation.

(d) * * *
(5)(i) Prior to the selection, the field office shall complete an environmental review in compliance with the National Environmental Policy Act of 1969 and the related authorities in 24 CFR Part 50. Prior to selection, the field office shall determine whether the proposed site is in compliance with Executive Order 11988, Floodplain Management, and Executive Order 11990, Wetlands Protection.

(ii) No financial assistance shall be approved for acquisition, construction, reconstruction, repair, or improvement of a building located in an area that has been identified by the Federal Emergency Management Agency as having special flood hazards unless the community in which the area is situated is participating in the National Flood Insurance Program and the regulations thereunder (44 CFR Parts 59-79) or less

than a year has passed since FEMA notification regarding such hazards, and flood insurance on the structure is obtained in compliance with Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 42 U.S.C. 4001 et seq.).

9. By revising § 885.230 to read as follows:

§ 885.230 Duration of Section 202 fund reservations.

The Field Office Manager/Supervisor, subject to the approval of the Assistant Secretary, may cancel a fund reservation at any time if it can be established that the Borrower is not making satisfactory progress toward the start of construction, rehabilitation, or acquisition, and shall cancel any reservations of Section 202 loan funds for projects for which the construction, substantial rehabilitation, or acquisition with or without moderate rehabilitation, is not commenced within the eighteen-month period following issuance of the Notice of Section 202 Fund Reservation, unless an extension of time, not to exceed six months, is requested of and granted by the Field Office Manager/Supervisor.

10. By revising § 885.415(n) and (p) to read as follows:

§ 885.415 Requirements prior to initial loan closing.

(n) Assurance of Completion of Construction or Moderate or Substantial Rehabilitation Contract in the form of 50 percent Performance and Payment Bond or a cash escrow in the amount of 25 percent of total construction or rehabilitation cost.

(p) A Contractor's and Subcontractor Certification Concerning Labor Standards and Prevailing Wage Requirements, except for loans involving Acquisitions Without Moderate Rehabilitation.

11. By revising § 885.420(b) to read as follows:

§ 885.420 Loan disbursement procedures.

(b) All disbursements to the Borrower shall be made on a periodic basis in an amount not to exceed the HUD-approved cost of portions of construction or rehabilitation work completed and in place (except as modified in paragraph (d) of this section), minus the appropriate holdback, as determined by the field office.

12. By revising the title of § 885.425 and paragraph (a) to read as follows:

§ 885.425 Completion of acquisition with or without moderate rehabilitation, construction or substantial rehabilitation, execution of HAP contract, and cost certification and approvals by HUD.

(a) The requirements for completion of acquisitions with or without moderate rehabilitation, construction or substantial rehabilitation and approvals by HUD shall be satisfied by the Borrower prior to submission of a final requisition for disbursement of loan proceeds.

(Sec. 202, Housing Act of 1959, 12 U.S.C. 1701q; sec. 7(d), Department of Housing and Urban Development Act 42 U.S.C. 3535(d))

Dated: September 20, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 82-31283 Filed 11-15-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 194, 250, and 251

[T.D. ATF-116, Ref: Notice No. 383]

Elimination of Certain Public Use Forms and Adjusted Interest Rates Applicable to Special Tax

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule amends the regulations pertaining to retailers, wholesalers, and importers of alcoholic beverages. The Bureau of Alcohol, Tobacco and Firearms (ATF) is eliminating certain required Government forms, records, and reports in favor of utilizing the dealer's and importer's accounting and recordkeeping systems to the extent that these systems accurately account for all receipts and dispositions of distilled spirits. ATF will place strong emphasis on the integrity and utilization of the dealer's commercial records and supporting summary records in lieu of the previously required Government records and reports.

EFFECTIVE DATE: December 16, 1982.

FOR FURTHER INFORMATION CONTACT: Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, 202-566-7626.

SUPPLEMENTARY INFORMATION: The specific changes will: (1) Eliminate two public use forms and the daily

recapitulation record prepared by wholesale liquor dealers. (2) provide for a new monthly summary report of receipts and disposition to be prepared by wholesale liquor dealers only when required, in writing, by the regional regulatory administrator. (3) eliminate the requirement for a consignee wholesale liquor dealer to serially number records of receipt. (4) eliminate the requirement for wholesale liquor dealers to mark records of receipt and disposition "Government File Copy", and (5) provide a means for all retail dealers to make application for permission to maintain required records of receipt off-premises. In addition, this final rule provides for annual adjustments to interest rates and announces the new adjusted interest rate of 20 percent which the Internal Revenue Service charges on tax underpayments and pays on tax overpayments. The new adjusted interest rate effective February 1, 1982, was caused by a change to section 6621(b) of the Internal Revenue Code of 1954 by Public Law 97-34 (Economic Recovery Tax Act of 1981). In particular, the change in interest rates from 12 to 20 percent applies to retailers, wholesalers, importers and certain other individuals dealing in or using alcoholic beverages, who are required to pay special (occupational) tax. After 1982 all adjustments to interest rates will be effective on January first of each year.

SUPPLEMENTARY INFORMATION:

Background

A. Relating to Forms, Records and Reports

On September 18, 1981, the Bureau of Alcohol, Tobacco and Firearms (ATF) published a notice of proposed rulemaking, No. 383, in the *Federal Register* (46 FR 46347), which proposed to amend Parts 194, 250 and 251 of 27 CFR. The comment period for this notice closed on December 17, 1981. This notice proposed: (1) To eliminate two public use forms required to be prepared and submitted by wholesale dealers and importers of distilled spirits (ATF Form 52A and 52B (5170.9), Wholesale Liquor Dealer's Report of Receipts—Wholesale Liquor Dealer's Report of Dispositions and ATF Form 338 (5110.48), Wholesale Liquor Dealer's Semiannual Report), (2) to eliminate the requirement for wholesale liquor dealers to maintain the daily recapitulation record on all receipts and dispositions of distilled spirits, (3) to require a new monthly summary report of receipts and dispositions of distilled spirits only when required, in writing, by the

regional regulatory administrator, and (4) to eliminate the requirement for a consignee wholesale liquor dealer to enter a separate serial number on each receiving invoice.

Since the information which was contained on the two public use forms and the recapitulation record is available to ATF in the dealer's accounting and recordkeeping systems, ATF decided to eliminate the required records and instead, rely on the dealer's commercial records which are a part of the recordkeeping and accounting systems. It was concluded that the revenue would not be jeopardized by the elimination of these records.

B. Relating to Adjusted Interest Rates, as Prescribed in Section 6621(b) of 26 U.S.C.

Under the provisions of section 6621(b) of 26 U.S.C., as amended by section 711, Pub. L. 97-34 (Economic Recovery Tax Act of 1981), the Commissioner of Internal Revenue published Revenue Ruling 81-260 in Internal Revenue Bulletin No. 1981-44, on November 2, 1981, which adjusted the interest rate from 12 to 20 percent charged on certain tax underpayments and paid on overpayments. The adjusted interest rate is effective February 1, 1982, and applies to amounts outstanding on that date or arising thereafter.

Previously, section 6621(b) of 26 U.S.C. only provided for adjusting interest rates every two years. The Economic Recovery Tax Act of 1981 (Pub. L. 97-34) amended section 6621(b) of 26 U.S.C. and now provides for an annual adjustment of the interest rate, to be effective 1 January of each year after 1982. This new law provides that the interest rate shall be set by October 15 and is based on 100 percent of the average prime rate for the preceding September.

Comments

In response to Notice No. 383, ATF received three comments. These comments were received from: (1) United Vintners, Inc., (2) Somerset Importers, Ltd., and (3) Wine and Spirits Wholesalers of America, Inc. (WSWA). All of the comments fully supported the proposal to eliminate the two public use forms. Two of the comments specifically supported the proposals to eliminate the daily recapitulation record and create a new monthly summary report.

The WSWA comment also recommended additional amendments to Part 194 as follows: (1) Amend § 194.235 (previously § 194.240) to eliminate the requirement for wholesale liquor dealers to stamp records of

receipt and disposition "Government File Copy", and (2) eliminate the requirement for wholesale liquor dealers to maintain separate Government files for records of receipt and disposition.

Based on the comments and recommendations received in response to Notice No. 383 the following actions are incorporated into this final rule:

(1) Elimination of the Daily Wholesale Liquor Dealer's Report of Receipts—Wholesale Liquor Dealer's Report of Disposals, ATF Form 52A and 52B (5170.9).

(2) Elimination of the Wholesale Liquor Dealer's Semi-annual Report, ATF Form 338 (5110.48).

(3) Elimination of the requirement for wholesale liquor dealers to enter a separate serial number on records of receipt.

(4) Elimination of the requirements for wholesale liquor dealers to maintain a daily recapitulation record of receipts and dispositions.

(5) Elimination of the requirement for wholesale liquor dealers to prepare and file ATF Form 338 (5110.48) and, in lieu of this form and the daily recapitulation record, provide for a new monthly summary report which would only be prepared when specifically required by the regional regulatory administrator. When required by the regional regulatory administrator, the monthly summary report would show the daily receipts and disposition, however, a wholesaler may file an application to post this report on less frequent intervals than daily.

(6) Elimination of the requirements, as recommended by the WSWA, for wholesale dealers and importers of distilled spirits to mark records of receipt and disposition "Government File Copy", and to maintain separate Government files for these records.

(7) Under the Department of the Treasury's Regulatory Improvement Implementation Program, ATF received an employee suggestion to amend 27 CFR 194.234 (previously § 194.239) by liberalizing the records maintenance requirements for retail liquor dealers. Currently, a retail dealer who exclusively retails wine and/or beer for off-premises consumption may file an application for permission to maintain records of receipt at another premises under its control. This option was provided to accommodate multilocation retail stores which often have a centralized recordkeeping location. It was suggested that § 194.234 be liberalized to provide retail dealers in distilled spirits the same option of maintaining records of receipt at another location. It was further suggested that this section be amended

to apply to both the sale of alcoholic beverages for on-premises or off-premises consumption. The option to maintain records of receipt at another location would be limited to the jurisdiction of a regional regulatory administrator. ATF is accepting and incorporating this suggestion into the final regulations.

Other

Because of the enactment of Public Law 97-34 (Economic Recovery Tax Act of 1981, August 13 1981) which amended section 6621(b) of the Internal Revenue Code of 1954, ATF is revising § 194.110 of 27 CFR.

Due to the proliferation of interest rates which vary from year to year, it is determined to be no longer feasible to publish the complete list of applicable interest rates and effective dates in § 194.110. Continued publication of this complete list would require § 194.110 to be amended annually because of the new requirements contained in 26 U.S.C. 6621(b).

As revised, § 194.110 will no longer list the applicable interest rates, but will merely describe the method by which interest rates are adjusted and the source from which specific information on applicable rates can be obtained.

Regulatory Flexibility Act

The notice of proposed rulemaking which resulted in this final rule contained a certification under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that if promulgated as a final rule, it will not have a significant impact on a substantial number of small entities. Therefore, the requirement contained in the Regulatory Flexibility Act (5 U.S.C. 604) for a final regulatory flexibility analysis shall not apply to this final rule.

Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects

27 CFR Part 194

Alcohol and alcoholic beverages, Authority delegations, Beer, Claims, Excise taxes, Exports, Labeling, Liquors, Packaging and containers, Penalties, Reporting requirements, Wine.

27 CFR Part 250

Administrative practice and procedures, Alcohol and alcoholic beverages, Authority delegations, Beer, Customs duties and inspection, Electronic funds transfer, Liquors, Packaging and containers, Reporting requirements, Surety bonds, Transportation, U.S. possessions, Wine.

27 CFR Part 251

Administrative practice and procedures, Alcohol and alcoholic beverages, Authority delegations, Beer, Customs duties and inspection, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Perfume, Reporting requirements, Transportation, Wine.

Drafting Information

The principal author of these regulations is Norman Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices of the Bureau and from the Treasury Department participated in developing this document, both in matters of substance and style.

Authority

Accordingly, under the authority contained in 26 U.S.C. 7805 (68 Stat. 917), 27 CFR Parts 194, 250 and 251 are amended as follows:

PART 194—LIQUOR DEALERS

Paragraph 1. The table of sections in 27 CFR Part 194, Subpart O is amended by changing the title of § 194.230 from "Recapitulation Records" to "Monthly Summary Report"; removing §§ 194.231, 194.234 through 194.237 and 194.244; and redesignating §§ 194.232 as 194.231, 194.233 as 194.232, 194.238 and 194.239 as 194.233 and 194.234, respectively, 194.240 as 194.235 and changing the title of the section from "Time and Manner of filing records of receipt and disposition" to "Filing", and redesignating §§ 194.241 through 194.243 as 194.236 through 194.238, respectively, and §§ 194.245 through 194.247 as 194.239 through 194.241, respectively. As amended, the table of sections for 27 CFR Part 194, Subpart O reads as follows:

Subpart O—Prescribed Records and Reports, and Posting of Signs

Wholesale Dealers' Records and Reports

Sec.

- * * * * *
- 194.230 Monthly summary report.
- 194.231 Conversion between metric and U.S. units.
- 194.232 Discontinuance of business.
- 194.233 Requirements when wholesale dealer in liquors maintains a retail department.

Retail Dealer's Records

- 194.234 Requirements for retail dealers.

Files of Records and Reports

- 194.235 Filing.
- 194.236 Place of filing.

Period of Retention

- 194.237 Retention of records and files.
- 194.238 Photographic copies of records.

Posting of Signs

- 194.239 Sign of wholesale dealer in liquors.
- 194.240 Display of false sign.
- 194.241 Other dealers; no sign required.
- * * * * *

Par. 2. Section 194.110 is revised to replace references to specific interest rates with a reference to the method by which adjusted interest rates are determined by law. As revised, § 194.110 reads as follows:

§ 194.110 Interest on unpaid tax.

(a) *General.* Interest is due on unpaid special tax from the date the tax was required to be paid to the date paid. Interest shall be charged for each day at the rate prescribed by law in effect on that day.

(b) *Adjusted interest rates.* Adjusted interest rates are announced by the Commissioner of Internal Revenue not later than October 15 of any year, in accordance with variations in the prime interest rate during September of that year, as prescribed by 26 U.S.C. 6621(b). The regional regulatory administrator will provide information, when requested, regarding interest rates applicable to specific time periods.

(Sec. 7, Pub. L. 96-625, 88 Stat. 2114 as amended (26 U.S.C. 6621); 68A Stat. 817 (26 U.S.C. 6601))

§ 194.193 [Amended]

Par. 3. Section 194.193 is amended by changing the section reference in the last sentence from "§ 194.239" to "§ 194.234."

Par. 4. Section 194.221 is revised by including the requirement for wholesale dealers to prepare and file, when required by the regional regulatory administrator, a monthly summary report in lieu of a daily recapitulation record; other minor editorial changes are

included. As revised, § 194.221 reads as follows:

§ 194.221 General requirements as to distilled spirits.

Except as provided in §§ 194.223 and 194.224, every wholesale dealer in liquors shall keep daily records of the physical receipt and disposition of distilled spirits, as prescribed in §§ 194.225 and 194.226. When required in writing by the regional regulatory administrator, dealers shall also prepare and file a monthly summary report totaling the daily receipts and disposition of distilled spirits as prescribed in § 194.230.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

§ 194.222 [Amended]

Par. 5. Section 194.222 is amended by changing the section reference in the second sentence from "§ 194.242" to "§ 194.237."

Par. 6. Section 194.225 is amended by revising paragraphs (a)(2) and (b) and the authority citation to read as follows:

§ 194.225 Records of receipt.

(a) * * *

(2) Date of receipt (to include date of inventory for recorded gains),

* * * * *

(b) *Form of record.* The record prescribed by paragraph (a) of this section will be a part of the accounting system and shall consist of consignors' invoices (or, where such invoices are not available on the day the shipment is received, memorandum receiving records prepared on the day of receipt of distilled spirits, to include records of inventory for recorded gains), and credit memorandums covering distilled spirits returned to the dealer, which contain all required information.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

Par. 7. Section 194.226 is amended by revising paragraphs (a)(2) and (b) and the authority citation to read as follows:

§ 194.226 Records of disposition.

(a) * * *

(2) Date of disposition (to include date of discovery in the case of casualty, theft or recorded inventory losses),

* * * * *

(b) *Form of record.* The record prescribed by paragraph (a) of this section will be part of the accounting system and shall consist of wholesale dealer's invoices (or, where such invoices are not available at the time the spirits are removed, memorandum

shipping records prepared at the time of removal of the distilled spirits, to include date of discovery in the case of casualty, theft or recorded inventory losses) which contain all required information. * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

Par. 8. Section 194.227 is amended by revising the third and fourth sentences and the authority citation to read as follows:

§ 194.227 Cancelled or corrected records.

* * * If a wholesale dealer in liquors voids an invoice for any reason, the file copy prescribed in § 194.235 will be marked "Cancelled" and be filed as provided in that section; any remaining copy of the voided invoice will be destroyed or similarly cancelled and filed. If a new invoice is prepared, its serial number will be cross referenced on any retained copies of the cancelled invoice.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended (26 U.S.C. 5114))

Par. 9. Section 194.230 is revised to read as follows:

§ 194.230 Monthly summary report.

(a) *Requirement.* Every wholesale dealer in liquors shall, when required, submit to the regional regulatory administrator, a monthly summary report of the total quantities of all distilled spirits received and disposed of daily during the month (including the date of discovery for theft, casualty and inventory losses and inventory gains). This report will be posted by the wholesaler on a daily basis. If there were no receipts or disposals of distilled spirits during the month, the report will be marked "No Transactions During Month." This report will be filed not later than the 15th day of the month following the report period, and a copy retained by the dealer. Upon receipt of an application the regional regulatory administrator may authorize a dealer to post the report less frequently until otherwise notified. The regional regulatory administrator's authorization will specify the intervals at which the posting will be accomplished, but not less frequently than monthly.

(b) *Form of report.* When required, the monthly summary report may be prepared in a format which most conveniently adapts itself to the dealer's accounting and recordkeeping systems. In addition to any other information shown therein, the report will include the daily totals of all distilled spirits received and disposed of, including dispositions caused by inventory,

casualty or theft losses and receipts caused by recorded gains in inventory; and

(1) Daily totals of all bottled spirits received and disposed of, recorded separately by wine gallons, or liters,

(2) Daily totals of all bulk spirits in packages received and disposed of, recorded separately by proof gallons.

(c) *Declaration.* When required to be filed, the monthly summary report will bear the following declaration signed by the dealer or an authorized agent:

I declare under the penalties of perjury that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete, and is supported by true, correct, and complete records which are available for inspection.

(d) When the monthly summary report is not required by the regional regulatory administrator to be filed, every wholesale dealer in distilled spirits is still required to maintain and make available for review by ATF officers:

(1) Records of receipt, required by § 194.225;

(2) Records of disposition, required by § 194.226; and

(3) Any other supporting information or documents regarding the receipt and disposition of distilled spirits which have a direct bearing in determining the completeness and accuracy of the accounting and recordkeeping systems.

(Act of August 16, 1954, 68A Stat. 749 (26 U.S.C. 6065); Section 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1348, as amended, 1395, as amended (26 U.S.C. 5114, 5146, 5555))

§ 194.231 [Removed.]

§ 194.232 [Redesignated as § 194.231]

Par. 10. Section 194.231 is removed and § 194.232 is redesignated as § 194.231.

Par. 11. Section 194.233 is redesignated as § 194.232 and revised to read as follows:

§ 194.232 Discontinuance of business.

When a wholesale dealer in liquors, who is required under § 194.230 to file a monthly summary report, discontinues business, a monthly summary report marked "Final" shall be filed covering transactions through the date of discontinuance.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

§§ 194.234, 194.235, 194.236, and 194.237 [Removed.]

Par. 12. Sections 194.234, 194.235, 194.236 and 194.237 are removed.

Par. 13. Section 194.238 is redesignated as § 194.233 and revised to read as follows:

§ 194.233 Requirements when a wholesale dealer in liquors maintains a retail department.

(a) When a wholesale dealer in liquors maintains a separate department on the premises for the retailing of distilled spirits, and the retail sales of distilled spirits normally represent 90 percent or more of the volume of distilled spirits sold, the dealer may "constructively" receive all distilled spirits in the retail department. Sales involving a wholesale transaction may be "constructively" sold through the wholesale department.

(1) *Receipts.* In lieu of maintaining and preparing the records required by §§ 194.225 and 194.226, a wholesale dealer may constructively receive all distilled spirits in its retail department. In this case, the receiving document will serve as a receipt for (through) the wholesale department and a disposition (transfer) to the retail department. The receiving document will be maintained by the retail department, as required by § 194.234.

(2) *Dispositions.* In lieu of the records required by § 194.226, a wholesale dealer may constructively sell distilled spirits from its retail department to other dealers. The sales invoice or bill will be filed in the wholesaler's disposition records and will serve as a record of receipt from the retail department and a record of disposition to another dealer.

(b) Except as provided in paragraph (a) of this section, a wholesale dealer shall prepare and maintain the required records of receipt and disposition as prescribed in §§ 194.225 and 194.226. Transfers between the wholesale and retail departments will be treated in the same manner as any other transaction involving the wholesale department.

(c) When required by § 194.230, a wholesale dealer shall prepare and file the monthly summary report of actual or constructive receipts and dispositions of all distilled spirits.

(d) Wholesale and retail departments need not be physically separated.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1345, as amended, 1395, as amended (26 U.S.C. 5114, 5124, 5555))

Par. 14. Section 194.239 is redesignated as § 194.234. Paragraph (a) of § 194.234 is amended by revising and dividing the first sentence into two sentences to read as follows:

§ 194.234 Requirements for retail dealers.

(a) *Records of receipt.* All retail dealers shall keep at their place of

business complete records of all distilled spirits, wines, or beer received showing (1) The quantities thereof, (2) from whom received, and (3) the receiving dates. The regional regulatory administrator may, pursuant to an application authorize the records to be maintained at another business premises under the control of the same dealer when it is determined that such maintenance will not cause undue inconvenience to ATF officers desiring to examine such records. * * *

Par. 15. Section 194.240 is redesignated as § 194.235 and revised by eliminating the requirements to mark one copy of each record of receipt and disposition "Government file copy" and to maintain a separate Government file for these records. As revised § 194.235 reads as follows:

§ 194.235 Filing.

The required records of receipt and disposition of all distilled spirits, as prescribed in §§ 194.225 and 194.226, may be filed in accordance with the wholesaler's regular accounting and recordkeeping systems. The required records shall consist of the dealer's own file copies of the receiving or shipping invoices.

(a) Dealers may file records of receipt and disposition in accordance with their own filing system as long as the filing system systematically and accurately accounts for all receipts and dispositions of distilled spirits.

(b) The required records of receipt and disposition will be filed not later than one business day following the date the transaction occurred.

(c) Supporting documents for receipts and dispositions, such as delivery receipts and bills of lading, may be filed in accordance with the wholesaler's regular accounting and recordkeeping practices.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

Par. 16. Section 194.241 is redesignated as § 194.236 and revised to read as follows:

§ 194.236 Place of filing.

Prescribed records of receipt and disposition and monthly summary reports required by § 194.230 will be maintained by transaction or reporting date, at the dealer's place of business. The regional regulatory administrator may, pursuant to an application, authorize files, or an individual file, to be maintained at another business location under the control of the dealer, if the alternative location does not cause

undue inconvenience to ATF officers desiring to examine the files.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended (26 U.S.C. 5114))

§ 194.242 [Redesignation as § 194.237]

Par. 17. Section 194.242 is redesignated as § 194.237.

Par. 18. Section 194.243 is redesignated as § 194.238 and revised to read as follows:

§ 194.238 Photographic copies of records.

(a) *General.* Dealers may record, copy, or reproduce records required by this part. Dealers may use any process which accurately reproduces the original record, and which forms a durable medium for reproducing and preserving the original record.

(b) *Copies of records treated as original records.* Whenever records are reproduced under this section, the produced records will be preserved in conveniently accessible files, and provisions will be made for examining, viewing, and using the reproduced record the same as if it were the original record, and it will be treated and considered for all purposes as though it were the original record. All provisions of law and regulations applicable to the original record are applicable to the reproduced record. As used in this section, "original record" means the record required by this part to be maintained or preserved by the dealer, even though it may be an executed duplicate or other copy of the document.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5555))

§ 194.244 [Removed]

Par. 19. Section 194.244 and the undesignated center headnote preceding this section is removed.

§§ 194.245-194.247 [Redesignated as §§ 194.239-194.241]

Par. 20 Sections 194.245 through 194.247 are redesignated as §§ 194.239 through 194.241, respectively.

§ 194.271 [Amended]

Par. 21. Section 194.271, paragraph (c), is amended by changing the section references in the last sentence from "§§ 194.241 and 194.242" to "§§ 194.236 and 194.237."

PART 250—[AMENDED]

Par. 22. The table of sections in 27 CFR Part 250, Subparts H and N is amended by removing §§ 250.165 and 250.274, respectively. The undesignated center headnote, "Procurement of Forms", preceding these sections is also removed.

§§ 250.165 and 250.274 [Removed]

Par. 23. Sections 250.165 and 250.274 are removed along with the undesignated center headnote preceding these sections.

Par. 24. Section 250.275 is revised by eliminating the requirements to mark one copy of each record of receipt and disposition "Government file copy" and to maintain a separate Government file for these records in a specified manner. As revised § 250.275 reads as follows:

§ 250.275 Filing.

(a) All records and reports required by this part will be maintained separately, by transaction or reporting date, at the importer's place of business. The regional regulatory administrator may, pursuant to an application, authorize files, or an individual file, to be maintained at another business location under the control of the importer, if the alternative location does not cause undue inconvenience to ATF or Customs officers desiring to examine the files or delay in the timely submission of documents.

(b) If an importer conducts wholesale operations, one legible copy of each required record of receipt and disposition shall be filed not later than one business day following the date of transaction.

(c) If an importer conducts only retail operations, either loose-leaf or book records may be maintained for the daily receipt of liquors which contain all the required information.

(d) Supporting documents, such as consignors' invoices, delivery receipts, bills of lading, etc., or exact copies of the same, may be filed in accordance with the importer's regular accounting and recordkeeping practices.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

PART 251—[AMENDED]

Par. 25. The table of sections in 27 CFR Part 251, Subpart I is amended by removing § 251.135.

§ 251.135 [Removed]

Par. 26. Section 251.135 is removed.

Par. 27. Section 251.136 is revised by eliminating the requirements to mark one copy of each record of receipt and disposition "Government file copy" and to maintain a separate Government file for these records in a specified manner. As revised § 251.136 reads as follows:

§ 251.136 Filing.

(a) All records and reports required by this part will be maintained separately,

by transaction or reporting date, at the importer's place of business. The regional regulatory administrator may, pursuant to an application, authorize files, or an individual file, to be maintained at another business location under the control of the importer, if the alternative location does not cause undue inconvenience to ATF or Customs officers desiring to examine the files or delay in the timely submission of documents.

(b) If an importer conducts wholesale operations, one legible copy of each required record of receipt and disposition shall be filed not later than one business day following the date of transaction.

(c) If an importer conducts only retail operations, they may maintain either loose-leaf or book records of the daily receipt of liquors which contain all the required information.

(d) Supporting documents, such as consignors' invoices, delivery receipts, bills of lading, etc., or exact copies of the same, may be filed in accordance with the importer's regular accounting and recordkeeping practices.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

Signed: August 31, 1982.

W. T. Drake,

Acting Director.

Approved: September 21, 1982.

J. M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-31362 Filed 11-15-82; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 651

Environmental Quality; Environmental Effects of Army Actions

AGENCY: Army Department, DOD.

ACTION: Final rule.

SUMMARY: This document amends the Department of the Army's procedures implementing the National Environmental Policy Act. This change is provided to clarify procedures and policies as a result of experience gained since the initial issue of this regulation; to eliminate the requirement for a Record of Environmental Consideration for selected Categorical Exclusions; to eliminate the requirement for ongoing operation environmental documentation; to allow for Major Command (MACOM) processing of selected environmental

impact statements; to change and clarify several Categorical Exclusions; and to add one new Categorical Exclusion.

EFFECTIVE DATE: November 16, 1982.

ADDRESS: Send comments to Army Environmental Office, Office, Assistant Chief of Engineers, Room 1E 676, Pentagon, Washington, DC 20310, (202-694-3434).

FOR FURTHER INFORMATION CONTACT:

Mr. Gary Robinson, Army Environmental Office, Office, Assistant Chief of Engineers, Room 1E 676, Pentagon, Washington, DC 20310, (202-694-3434).

SUPPLEMENTARY INFORMATION: An interim rule was published on pages 43685-43692 of the *Federal Register* on October 4, 1982 and invited comments for 30 days ending November 4, 1982. No comments were received for this period.

Classification

The Secretary of the Army has determined that this revision is not a "major" rule within the meaning of Executive Order (E.O.) 12291. This is because the revision will not: (1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State, or local government agencies; or (3) have significant adverse effects on competition, employment, investment productivity, innovation or on the ability of a United States based enterprise to compete with foreign-based enterprises in domestic or export markets.

The purpose and effect of this amendment is to reduce unnecessary regulatory burdens on Army agencies and officials. No increased paperwork burdens are imposed by the amendment.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291.

Because this amendment is not "major," it is effective immediately as an interim final rule. It may be revised before becoming final if substantive comments are received by the Army Environmental Office within thirty (30) calendar days of the effective date.

Regulatory Analysis

Under E.O. 12291, the Department of the Army must determine if a regulation is "major" and therefore subject to a Regulatory Impact Analysis. Because the Department of the Army believes that this amendment is not "major," it is not subject to such an analysis.

List of Subjects in 32 CFR Part 651

Environmental protection,
Administrative practice and procedure,
Environmental impact statement.

John O. Roach II,

DA Liaison Officer with the Office of the Federal Register.

PART 651—ENVIRONMENTAL CONSIDERATION OF ARMY ACTIONS (AR 200-2)

For the reasons set out in the preamble, 32 CFR Part 651 is amended as set forth below:

§ 651.1 [Amended]

1. Section 651.1 is amended by inserting (EO) after Executive Order.

2. Section 651.3 is amended by revising paragraph (c) and adding paragraph (e) as follows:

§ 651.3 Applicability.

* * * * *

(c) This regulation also applies to proposals and activities of the Army National Guard which involve Federal funding and/or National Guard Bureau approval.

* * * * *

(e) Combat or combat-related activities in a combat zone are not subject to this regulation.

3. Section 651.4 is amended by adding an undesignated paragraph preceding paragraphs (a) and by revising paragraph (a) and (d) to read as follows:

§ 651.4 Policies.

It is the continuing policy of DA to serve as a trustee of the environment. In order to accomplish this policy, DA will:

(a) Carry out its mission of national security in a manner consistent with NEPA and other applicable standards, laws, and policies. All practicable means consistent with other essential consideration of national policy should be employed to minimize or avoid adverse environmental consequences and to attain the goals and objectives in sections 101 and 102 of NEPA. Environmental considerations will be integrated into the decisionmaking process insuring that:

(1) Major decision points are designated for principal programs and proposals likely to have a significant effect on the quality of the human environment, and steps are taken to ensure that the NEPA process coincides with these decision points.

(2) Relevant environmental documents, comments and responses accompany the proposal through existing Army review processes so that officials use them in making decisions.

The requirements of NEPA will be integrated with other planning and environmental review procedures required by law or Army practice so that environmental considerations are reviewed concurrently rather than consecutively.

(3) The alternatives considered by the decisionmaker are encompassed by the range of alternatives discussed in relevant environmental documents, and the decisionmaker considers all the alternatives described in the environmental document.

(d) Insure that all appropriate environmental documentation is subjected to reviews which consider operations and security (OPSEC) principles and procedures described in AR 530-1. These reviews will be documented on the cover sheet or signature page.

4. Section 651.5 is amended by revising paragraphs (f) and (j) and the first sentence of paragraph (c)(2); by adding paragraphs (b)(11) and (c)(10); by removing and reserving (c)(8) and (g); and by amending (b)(7) by adding the phrase "and Records Service, GSA" to the last sentence to read as follows:

§ 651.5 Responsibilities.

(b) (11) Resolve issues in determining if a public hearing is appropriate for the proposed action and assign, when necessary, the responsibility for the hearing to an appropriate office.

(c) (2) Assess proposed programs and actions to determine their environmental consequences and initiate the preparation of necessary environmental documentation. Environmental documents shall be circulated and reviewed at the same time as other planning documents such as the DD Form 1391. (Military Construction Project Data), Case Study and Justification Folder, Integrated Program Summary, feasibility, and alternative analysis studies.

(8) [Reserved]

(10) Prepare and maintain Record of Decision documents for action for which they are the staff proponent.

(f) The Surgeon General (TSG) is responsible for coordinating the environmental review related to health and welfare aspects of proposed EISs submitted to HQDA, and for preparing EAs or EISs for proposed actions and

programs for which he/she is the proponent. DA agencies are encouraged to draw upon the special expertise which is available within the medical department, including the US Army Environmental Hygiene Agency, to identify and evaluate environmental impacts.

(g) [Reserved]

(j) All Army commands and agencies will: (1) Establish, as necessary, internal procedures for analyzing environmental consequences of continuing and proposed actions and programs which would implement their mission and/or function and for preparing and coordinating within their technical staffs, and processing environmental documentation required for proposed actions and programs.

(2) Establish, as necessary, internal procedures to insure that proposed regulations, directives, instructions, and other major policy publications which implement their function or which implement issuances by higher headquarters, are evaluated for environmental consequences prior to publication.

(3) Maintain the capability (in terms of personnel, training, and other resources) to comply with this regulation (40 CFR 1507.2).

5. Section 651.6 paragraph (a) is revised to read as follows:

§ 651.6 Summary of required records and documents.

(a) Record of Environmental Consideration (REC). See subpart C for application.

5a. Section 651.7 is amended by revising paragraphs (e), (f), and (g) and by revising the paragraph designated "b" in Figure 2-1 to read as follows:

§ 651.7 Definitions.

(e) *HQDA Staff Proponent*. The principle planner, implementer, and/or decision authority for a proposed action.

(f) *Proponent*. Since proponent identification is dependent on the nature and scope of any given action, a proponent may exist at all levels of the Army structure, e.g., the installation facility engineer becomes proponent of installation-wide MCA or O&M activity, HQ TRADOC becomes a proponent of a change in initial entry training. In general, the proponent is the lowest level decisionmaker and has the responsibility to prepare the environmental documentation because the knowledge of all aspects of the

action and the ability to modify the planned actions to minimize impacts exists at this level. In the decisionmaking process, decisions are often subject to review and/or approval by higher level authorities including the HQDA staff proponent; therefore, the review/approval of the environmental document follows the same channel of review/approval as that of the proposed action.

(g) *Environmental documents*. Record of Environmental Consideration, Environmental Assessment, Environmental Impact Statement, Finding of No Significant Impact and Notice of Intent. A public record of Decisions required by 40 CFR 1505.2 but is not considered to be an environmental document because other factors are considered in the decision.

Figure 2-1 Format for Record of Environmental Consideration

b. Qualifies for Categorical Exclusion — appendix A, AR 200-2 and no extraordinary circumstances exist as defined in paragraph 651.16.

6. In § 651.8, paragraph (d), the first sentence is revised as follows:

§ 651.8 General.

(d) These procedures are designed to allow the decisionmaker to select a reasonable course of action by providing the relevant background information and subsequent analyses of positive and negative environmental effects of the proposal.

7. In § 651.9, paragraphs (a)(4) and (b)(3) are revised as follows:

§ 651.9 Applicability.

(4) Proposed new activities (e.g., individual and unit training, flight operations, etc.)

(3) Approval to use or store materials, radiation sources or wastes on Army land by non-Army entities. The responsibility to prepare environmental assessments is that of the non-Army requestor. If an EIS is required, the requestor will provide needed information for the Army preparation of the EIS. All environmental documentation will be reviewed and approved by the Army activity before initiating the request.

8. Section 651.10 is amended by revising paragraphs (a) (2)(i), (3); and (4)(ii) as follows:

§ 651.10 Categories of actions and procedures for environmental review.

- (a) * * *
(2) * * *

(i) In the event of an emergency, DA may be required to take immediate actions with significant environmental impact. These include actions that must be taken to promote the national defense or security and cannot be delayed, and actions necessary for the protection of life or property. The DA staff proponent shall notify OCE (DAEN-ZCE) who will then notify OASA(IL&FM) and the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics (ASD(MRA&L)) of an emergency action at the earliest possible time.

(3) **Categorical Exclusions (CX)** (subpart D and App A). These actions normally do not require an EA or an EIS because DA has determined that they do not individually or cumulatively have a significant effect on the human environment. If qualifications are met for a CX, as described in subpart D of this Part, a Record of Environmental Consideration may be required.

(4) * * *
(ii) If the proposed action is within the general scope of an existing EIA, EA, or EIS, but additional information is required, prepare a new assessment, incorporating by reference the existing document, and publish the conclusion (FNSI or NOI).

9. Section 651.11 is amended by revising paragraph (c) as follows:

§ 651.11 Classified actions.

(c) Classification does not relieve a proponent of the necessity to assess the environmental effects of the proposed action. The HQDA staff proponent, in coordination with OCE (DAEN-ZCE) and OACSI, may select a review team

from DA agency(ies) or office(s) not connected with the proponent agency, or from outside DA, in order to provide an external review of classified environmental documents.

10. Section 651.12 is amended as follows:

Paragraphs (a) through (e) are redesignated as paragraphs (b) through (f) and a new paragraph (a) is added. The newly redesignated paragraphs (b)(2)(iv), (b)(3), (d)(3), (e)(6), Figure 3-2, the last sentence of paragraph (b)(4)(ii), and the first sentence of paragraph (b)(2)(ii) are revised and paragraph (b)(4)(i) is amended by adding the phrase, "is unprecedented", after the word "concern" and preceding the word "or"; paragraph (c)(1) is amended by removing the word "shall" wherever it occurs; paragraph (c)(2) is amended by removing the words "major" and "development" whenever they occur; and paragraph (d)(2) is amended by removing the word "importance" and replacing it with the word "interest".

§ 651.12 Integration with Army planning.

(a) It is the Army's goal that environmental considerations be integrated with and take place during other Army planning and decisionmaking actions in order to avoid delays in mission accomplishment. Environmental documents should be completed so that they may be included with any recommendation or report to the decisionmaker. The same documents should be forwarded to the planners, designers, and/or implementors so that recommendations and mitigations on which the decision was based may be carried out.

- (b) * * *
(2) * * *
(ii) When variations to these time limits are set, the DA agency should consider the factors in 40 CFR 1501.8(b)(1). * * *
(iv) The entire EIS process could

require more than one year. Most of this time is taken by the preparation of the DEIS and the revision and response to comments to prepare the FEIS. There is a minimum public review time of 90 days between the publication of the DEIS and the announcement of the record of decision. Army EISs are not normally processed in so short a time due to the internal staffing required for this type of action. After the availability of the Record of Decision is announced, the action may proceed. Figure 3-2 indicates typical and required time periods for EISs.

(3) **Categorical exclusions.** When a proposed action is categorically excluded from further environmental review (see subpart D and App. A), the proponent may proceed immediately with the action unless a Record of Environmental Consideration (REC) is required. If the REC is required, the proponent may proceed after receiving the concurrence of the designated environmental officer for the site of the proposed action.

(4) * * *

(ii) * * *

A deadline and point of contact for receipt of comments should be included in the announcement of the FNSI.

(d) * * *

(3) If the proponent desires to incorporate scoping in the public involvement or environmental review processes other than those required for an EIS, significant reduction in the extent of scoping incorporated is left to the proponent's discretion.

(e) * * *

(6) Stationing and installation planning, force development planning, and materiel acquisition planning.

BILLING CODE 3710-08-M

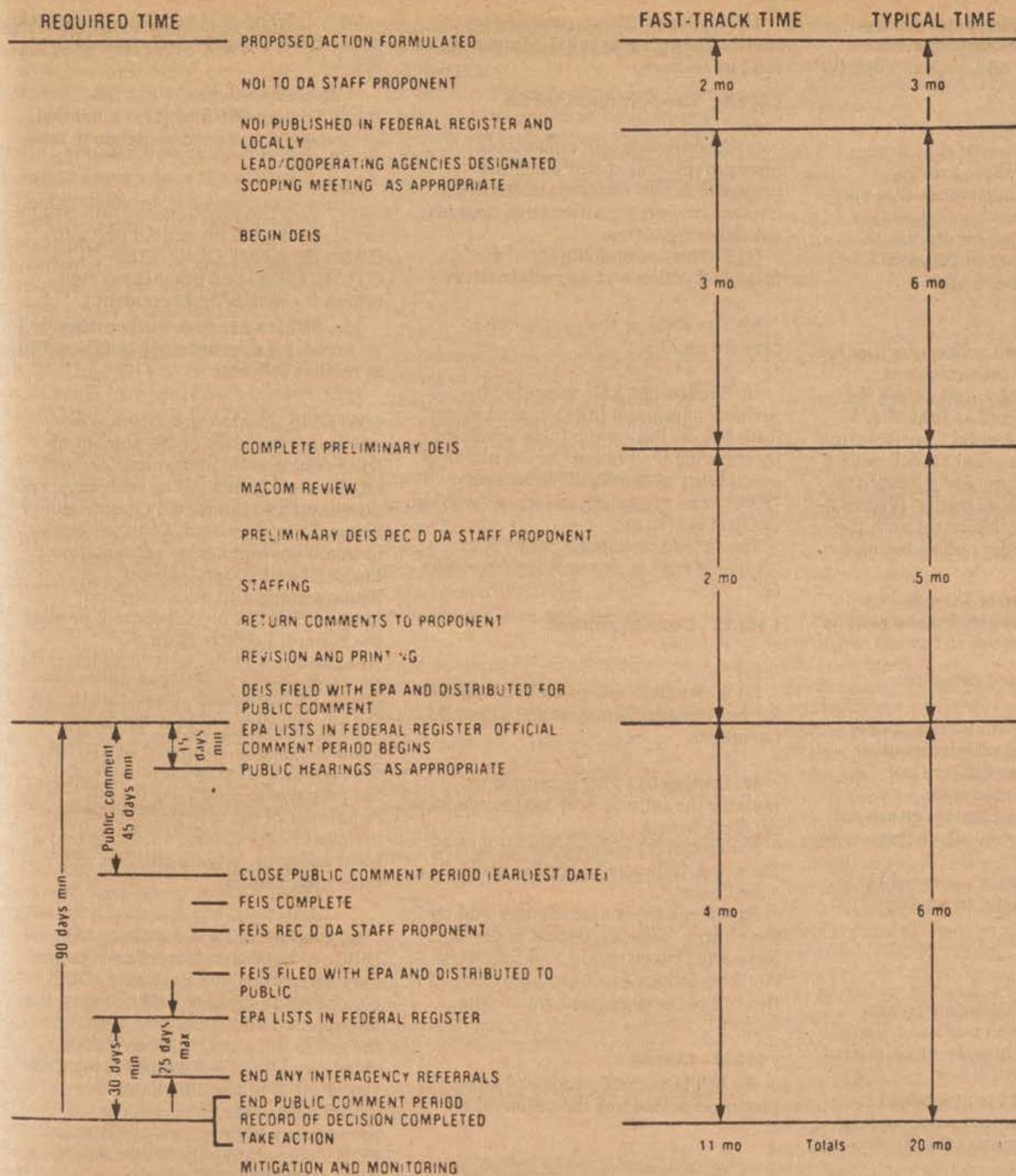


FIGURE 3-2. TIME RELATIONSHIPS FOR PREPARING AND PROCESSING AN EIS¹

¹ These times are not firm and fixed but rather variable on a case-by-case basis due to e.g., the project or action scale, data collection requirements, other cooperating agencies, public hearings.

11. Section 651.16 is amended by revising the introductory text of paragraph (b) and adding paragraph (c) to read as follows:

§ 651.16 Procedures.

(b) Determine if there are any extraordinary circumstances that may result in the proposed action having impact on the human environment which would require an EA or EIS. These circumstances might include: * * *

(c) If the proposed action qualifies for one of the categorical exclusions, nothing further is required unless the exclusion is identified as requiring a Record of Environmental Consideration. If the exclusion statement is followed by "(REC required)," prepare a Record of Environmental Consideration (Figure 2-1). Coordinate this document with the environmental officer before taking the action.

12. Section 651.19 is amended by revising the second sentence to read as follows:

§ 651.19 Purpose and definition.

The EA is the examination of new proposed activities which do not normally require an EIS, are not categorically excluded from environmental examination or are not excluded from environmental review by law. * * *

13. Section 651.20 is amended by revising paragraph (c) to read as follows:

§ 651.20 Criteria.

(c) Presence of hazardous/toxic chemicals or harmful radiation which could be released into the environment. * * *

14. Section 651.21 is amended by removing and reserving paragraph (c) and revising paragraphs (k), (l), and (r) to read as follows:

§ 651.21 Actions normally requiring an EA.

(c) [Reserved]

(k) Development of significant changes to installation master plans, and land and natural resource management plans.

(l) Proposals which may lead to the excessing of Army property and are also environmentally controversial.

(r) Production of hazardous or toxic materials.

15. Section 651.22 is amended by revising paragraphs (a)(3), (4), and (6) to read as follows:

§ 651.22 Components of the EA.

(a) * * *

(3) Appropriate and reasonable alternatives considered when the proposed action concerns unresolved conflict concerning alternative uses of available resources.

(4) Environmental impact of the proposed action and any alternatives.

(6) The FNSI or the conclusion to prepare an EIS.

16. Section 651.23 is amended by revising paragraph (a)(5) to read as set forth below. Paragraph (c) is amended by inserting the phrase "or the notice of availability of the FNSI" following "FNSI" and preceding the word "will" in the first sentence.

The reference in paragraph (d) to "Appendix D" is changed to "Appendix C."

§ 651.23 Decision process.

(a) * * *

(5) A deadline and point of contact for further information or receipt of public comments.

17. Section 651.27 is amended by revising the introductory text to read as set forth below.

Paragraph (e) is amended by adding the word, "adverse" after the word "significant."

Paragraph (h) is amended by adding the phrase "unless a permit under the Resource Conservation and Recovery Act Regulations has been obtained" at the end of the paragraph before the period.

§ 651.27 Criteria.

An EIS is normally required when the proposed action has the potential to:

18. Section 651.28 is amended by revising paragraph (b) to read as follows:

§ 651.28 Actions normally requiring EISs.

(b) Construction of facilities which have a significant effect on wetlands, coastal zones, and other areas of critical environmental concern.

§ 651.30 [Amended]

19a. Section 651.30(a) is amended by revising the fourth sentence to read as follows:

(a) * * * The NOI will be coordinated with HQDA (DAEN-ZCE and SAPA-PP). * * *

19b. Section 651.30(d)(1) is amended by revising the second sentence to read as follows:

(d) * * *

(1) * * * The preliminary DEIS will be circulated by the proponent office to OASA (IL & FM), OCE (DAEN-ZCE), OTJAG, OTSG and other interested offices for review and comment. * * *

19c. Section 651.30 is further amended by revising paragraphs (d)(2), (g), and (i) to read as follows:

(d) * * *

(2) DEIS. The DA proponent will advise the preparer of the number of DEIS copies to be forwarded for final HQDA staff review, filing with EPA, and distribution to interested Congressional delegations and committees, governors, national environmental organizations, the DOD and Federal agency headquarters, and other selected entities. The DA proponent will prepare the Federal Register Notice of Availability and the EPA filing letter for the signature of the Deputy for Environment, Safety and Occupational Health, OASA (IL & FM). When the DEIS is formally approved by HQDA, the HQDA staff proponent will notify the preparer to distribute the DEIS to the remainder of the distribution list that includes Federal, regional, State and local agencies, private citizens, and local organization.

(g) Prepare FEIS. If the changes in the DEIS are limited to factual corrections, only an errata sheet containing DEIS comments, responses, and changes must be prepared and circulated; however, the entire document with new cover sheet would be filed with EPA (40 CFR 1503.4(c)). If other more extensive modifications are required, the proponent will prepare a preliminary FEIS incorporating these modifications. Processing the FEIS is the same as outlined for the DEIS transmittal except that the public need not be invited to comment during the 30 day post-filing waiting period (40 CFR 1503.1(b)).

(i) Record of Decision. At the time of decision, or, if appropriate, its recommendation to Congress, the HQDA staff proponent will prepare a Record of Decision in accordance with 40 CFR 1505.2, and 1505.3, which will become a part of the environmental documentation presented for the final decision. A copy of the signed Record of

Decision will be forwarded to HQDA (DAEN-ZCE) WASH DC 20310.

20. Section 651.31a is added to read as follows:

§ 651.31a MACOM Processing of an EIS.

In certain cases where the scope of the EIS is limited, the DA staff proponent may authorize the MACOM to process an EIS.

(a) *Notice of Intent.* When the NOI is forwarded to the DA Staff proponent in accordance with § 651.30(a), the DA Staff proponent may determine the EIS processing will be accomplished by the MACOM. The NOI will be returned with any comments by a letter authorizing the MACOM to process the EIS in accordance with the guidance in this paragraph. The MACOM is responsible for preparation of the NOI with a transmittal letter to the Office of the Federal Register and will forward both to HQDA, DAAG-AMR-R, Alexandria, VA 22331. After a review to insure the document will be accepted by the Federal Register, it will be forwarded by the Office of The Adjutant General.

(b) *Preliminary DEIS.* When the Preliminary DEIS is staffed at the MACOM Headquarters, copies will be provided for concurrent review to the following HQDA elements to insure that HQDA interposes no objection: DAEN-ZCE (3 copies), JALS-RL, DASC-PSP-E, SPA-PP, the DA Staff proponent, and any other office recommended by the DA staff proponent.

(c) *EIS.* The Draft and Final EIS will be filed with the EPA by forwarding five (5) copies with a transmittal letter and additional five copies will be provided for review to the EPA regional office affected by the proposed action. One (1) copy will be forwarded to OSD. HQDA copies will be the same as for the Preliminary DEIS. Copies for Congressional delegations and committees will be coordinated with HQDA(SALL) so that Congressional notification procedures are met. Remaining distribution will be to interested governors, Federal agency headquarters, national environmental organizations, regional, state and local agencies and organizations, and interested private citizens. The proponent is responsible for developing the distribution list; advice is available from HQDA (DAEN-ZCE). A Notice of Availability may be published in the Federal Register by forwarding the notice with a transmittal letter by the same method used for the NOI.

(d) *Record of Decision.* At the time of decision, a Record of Decision will be prepared in accordance with 40 CFR

1505.2 and 1505.3. A copy of the Record of Decision will be provided to HQDA (DAEN-ZCE).

21. Section 651.33 is amended by revising paragraph (b)(1)(vi)(B) to read as follows set forth below. Paragraph (b)(2)(i) is amended by removing the word "appropriate" in the last sentence.

§ 651.33 Scoping.

(b) * * *
 (1) * * *
 (vi) * * *
 (B) Collection or analyzing environmental data, including studies required of cooperating agencies.

21a. Section 651.40 is amended by revising paragraph (a) and removing paragraph (c) as follows:

§ 651.40 Implementation guidance.

(a) Environmental documents prepared under the provisions of this subpart should use the format for such documents as contained in appendix F or as appropriate in light of the applicable statutes and SOFAs.

22. Appendix A to Part 651 is amended as set forth below:

Appendix A—List of Categorical Exclusions

(a) Paragraph 3 is amended by inserting the words, "forestry and" before the phrase, "fish and wildlife management plans."

(b) Paragraph 6 is amended by removing the word, "local."

(c) Paragraph 7 is revised to read as follows:

7. Construction that does not significantly alter land use, provide the operation of the project when completed would not of itself have a significant environmental impact; includes out-grants to private lessees for similar construction. (REC. required).

(d) Paragraph 9 is revised to read as follows:

9. Training entirely of an administrative or classroom nature.

(e) Paragraph 11 introductory phrase, is revised to read as follows:

11. Operations conducted by established laboratories in enclosed facilities where:

(f) Paragraph 12 is amended by inserting at the end of the paragraph, "(REC required)."

(g) Paragraph 13 is revised to read as follows:

13. Routine movement of personnel; routine handling and distribution of non-hazardous and hazardous materials in conformance with DA, EPA, Department of Transportation and state regulations.

(h) Paragraph 14 is revised to read as follows:

14. Reduction and realignment of civilian and/or military personnel which fall below the thresholds for reportable actions as prescribed in AR 5-10. Conversion of commercial activities (CA) to contract performance of services from in-house performance under the provisions of DOD Directive 4100.15.

(i) Paragraph 16 is revised to read as follows:

16. Acquisition, installation and operation of utility systems and communication, data processing, cable systems and similar electronic equipment which use existing rights of way, easements, distribution systems, and facilities.

(j) Paragraph 18 is amended by inserting at the end of the paragraph, "(REC required)."

(k) Paragraph 20 is amended by inserting at the end of the paragraph, "(REC required)."

(l) Paragraph 21 is amended by adding the phrase, ". . . ; use of non-Army property for Army activities where the action is consistent with existing land use plans. (REC required)." at the end of the paragraph before the period.

(m) Paragraph 22 is amended by adding the phrase, ". . . ; disposal of excess easement areas to the underlying fee owner. (REC required)." at the end of the paragraph before the period.

(n) Paragraph 23 is amended by inserting at the end of the paragraph, "(REC required)."

(o) Paragraph 24 is amended by adding the phrase, ". . . and grants of leases, licenses, permits and easements for use of excess or surplus property without significant change in land use. (REC required)." at the end of the paragraph before the period.

(p) Paragraph 25 is amended by inserting at the end of the paragraph, "(REC required)."

(q) Paragraph 26 is amended by inserting at the end of the paragraph, "(REC required)."

(r) Paragraph 27 is amended by inserting at the end of the paragraph, "(REC required)."

(s) Paragraph 28 is added to read as follows:

28. Proposed actions determined to be of such an environmentally insignificant nature

as not to meet the threshold for requiring an environmental assessment. (REC required).

23. Appendix B to Part 651 is amended as set forth below:

Appendix B—Content of the EIS

(a) Paragraph 1 is amended by revising paragraph (d) to read as follows:

1. * * *
d. The name, address, and telephone number of the person at the agency who can supply further information, and, as appropriate, the name and title of the major approval authority(ies) in the command channel through HQDA Staff proponent.

* * * * *

(b) Figure B-1—Example Cover Sheet is modified in the paragraph entitled, "Approval" by removing "Director of Training, DA" and insert in lieu thereof "Director of program affected by EIS."

(National Environmental Policy Act of 1969 (WEPA); 42 U.S.C. 4321 et seq.)

[FR Doc. 82-31112 Filed 11-15-82; 8:45 am]

BILLING CODE 3710-08-M

Proposed Rules

Federal Register

Vol. 47, No. 221

Tuesday, November 16, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document invites written comments on a proposal to revise the United States Standards for Grades of Dry Whole Milk. The proposed revision will remove the premium grade category and update the quality criteria so that the standards accurately define the levels of quality of dry whole milk manufactured. This proposed revision has been developed in cooperation with the American Dry Milk Institute.

DATE: Comments are due on or before January 17, 1983.

ADDRESS: Written comments (two copies) should be filed with the Hearing Clerk, 1077 South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Richard W. Webber, Chief, Dairy Standardization Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7473.

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

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that the revision proposed herein would not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because

this proposal will not alter the user fee structure utilized when USDA grading service is provided.

In accordance with the United States Department of Agriculture policies for regulatory review, the Dairy Standardization Branch initiated a review of the U.S. Standards for Grades of Dry Whole Milk. A prior review had been started but had to be abandoned due to other program requirements. This current review commenced on October 24, 1980.

The review was organized to obtain both current and historical information to support the criteria of the standard as written, or to support any changes necessary for modernization of the standard that might become apparent from the review. It was the intent of the review to obtain as much information as possible from as many varied sources and interested parties as possible.

The review consisted of several phases. First, a computer search of the National Agricultural Library (NAL) resources pertaining to dry whole milk was conducted. From this search, a number of articles and texts were selected having a direct bearing on the standard review. Next, the dry milk industry was contacted for input via the American Dry Milk Institute. Also contacted were other interested parties who may use the product and, therefore, would have an interest in its quality criteria.

Dry Whole Milk (DWM) production for 1981 was 92.1 million pounds, approximately 7.0 percent of the production of nonfat dry milk (NDM) for the same period. However, unlike nonfat dry milk, the production and commercial sales of DWM are well balanced. For 1981 the commercial sales for DWM were 93.1 million pounds. This represents an 11 percent increase in production and a 29 percent increase in sales over year earlier figures. It is apparent that the DWM segment of the industry is viable and growing.

Traditionally, DWM has not been utilized as a beverage product in the United States. Many experiments and research projects have been conducted toward this objective, but the ready availability of fresh fluid milk and the excellent quality of NDM have not resulted in any consumer demand for DWM in this use. The primary use of DWM is as an ingredient in a variety of other foods such as ice cream, soups,

candies and bakery products. A limited quantity of DWM is produced for export as a beverage commodity.

The U.S. Standards for Dry Whole Milk currently in effect were established in December 1970. During the ensuing years, a number of technological advances have been accomplished within the dairy industry, new market trends and preferences have emerged, and improved milk quality has gained increased significance.

The DWM industry through its trade association, the American Dry Milk Institute, has worked closely with USDA on the preparation of this revision and supports the changes being proposed. This proposal includes the following changes:

(a) The premium grade criteria and designation are eliminated. Premium grade was originally established as a quality level for DWM used as a beverage. DWM used as a beverage is not a normal item of commerce for the dairy industry.

(b) The Explanation of Terms section is expanded to provide clear definitions of the terminology used in the document and to be consistent with the format of other U.S. grade standards for dairy products.

(c) The reporting method for moisture content is changed to be consistent with the Food and Drug Administration (FDA) standard of identity for dry whole milk. This is not a substantive change in the allowable amount of moisture permitted by the standard.

(d) The solubility index criteria are increased for each grade level to be consistent with commercially produced DWM. This was requested by the American Dry Milk Institute.

(e) The oxygen content is eliminated as a grade criterion and its determination has been made optional. Determination of oxygen content is particularly important when DWM is used as a beverage. However, with the elimination of the premium grade criteria and designation, oxygen content as a grade criterion for the remaining grade designations is no longer appropriate.

USDA grade standards are voluntary standards that are developed to assist the orderly marketing process. Dairy plants are free to choose whether or not to use the grade standards. USDA grade standards for dairy products have been developed to identify the degrees of

quality in the various products. Quality in general refers to the usefulness, desirability, and value of a product—its marketability—but the precise definition of quality depends on the individual commodity. When dry whole milk is graded, the regulations governing the grading services of manufactured or processed dairy products, which require all graded dairy products to be produced in a USDA approved plant, would be in effect. These regulations also require a charge for grading services provided by USDA.

List of Subjects in 7 CFR Part 58

Food grades and standards, Dairy products.

PART 58—[AMENDED]

In consideration of the foregoing, it is proposed to amend 7 CFR Part 58 by revising §§ 58.2701 through 58.278 and the heading for Subpart S and by adding new §§ 58.2709 and 58.2710 to read as follows:

Subpart S—United States Standards for Grades of Dry Whole Milk

Definitions

- Sec.
- 58.2701 Dry whole milk.
- 58.2702 Milk.

U.S. Grades

- 58.2703 Nomenclature of U.S. grades.
- 58.2704 Basis for determination of U.S. grades.
- 58.2705 Specifications for U.S. grades.
- 58.2706 Basis for oxygen content determination.
- 58.2707 Optional tests.
- 58.2708 U.S. grade not assignable.
- 58.2709 Test methods.

Explanation of Terms

- 58.2710 Explanation of terms.

Subpart S—United States Standards for Grades of Dry Whole Milk¹

Definitions

§ 58.2701 Dry whole milk.

"Dry whole milk" made by the Spray process or Roller process is the product obtained by removal of water only from pasteurized milk which may have been homogenized. Alternatively, dry whole milk may be obtained by blending fluid, condensed, or dried nonfat milk with liquid or dried cream or with fluid, condensed, or dried milk, as appropriate, provided the resulting dry whole milk is equivalent in composition to that obtained by drying. It contains the lactose, milk proteins, milkfat, and milk minerals in the same relative

¹ Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

proportions as the milk from which it was made. It may be optionally fortified with either Vitamins A or D or both.

§ 58.2702 Milk.

The term "Milk", when used in this part, means milk produced by healthy cows and pasteurized at a temperature of 161°F. for 15 seconds or its equivalent in bacterial destruction before or during the manufacture of dry whole milk.

U.S. Grades

§ 58.2703 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows:

- (a) U.S. Extra grade.
- (b) U.S. Standard grade.

§ 58.2704 Basis for determination of U.S. grades.

The U.S. grades of dry whole milk are determined on the basis of flavor, physical appearance, bacterial estimate, coliform estimate, direct microscopic count, milkfat content, moisture content, scorched particle content, and solubility index.

§ 58.2705 Specifications for U.S. grades.

(a) *U.S. Extra grade.* U.S. Extra grade dry whole milk shall conform to the following requirements (See tables I, II, and III):

(1) *Flavor.* (applies to the reconstituted product). Shall be sweet, pleasing and desirable. It may possess a slight feed flavor; and a definite cooked flavor. It shall be free from undesirable flavors.

(2) *Physical appearance.* Shall be white or light cream color, free from lumps that do not break up under slight pressure, and practically free from visible dark particles. The reliquified product shall be free from graininess.

(3) *Bacterial estimate.* Not more than 50,000 per gram standard plate count.

(4) *Coliform estimate.* Not more than 10 per gram.

(5) *Milkfat content.* Not more than 26.0%, but less than 40.0%.

(6) *Moisture content.* Not more than 4.5% (as determined by weight of moisture on a milk solids not fat basis).

(7) *Scorched particle content.* Not more than 15.0 mg. for spray process, and 22.5 mg. for roller process.

(8) *Solubility index.* Not more than 1.0 ml. for spray process, and 15.0 ml. for roller process.

(b) *U.S. Standard grade.* U.S. Standard grade dry whole milk shall conform to the following requirements (See tables I, II, and III):

(1) *Flavor.* (applies to the reconstituted product) Shall be sweet and should have a pleasing flavor. It may possess the following flavors to a

slight degree: bitter, oxidized, scorched, stale, and storage; and to a definite degree: feed and cooked. It shall be free from undesirable flavors.

(2) *Physical appearance.* Should be white or light cream color, but may possess a slight unnatural color; and shall be free from lumps that do not break up under moderate pressure; and reasonably free from visible dark particles. The reliquified product shall be reasonably free from graininess.

(3) *Bacterial estimate.* Not more than 100,000 per gram standard plate count.

(4) *Coliform estimate.* Not more than 10 per gram.

(5) *Milkfat content.* Not less than 26.0%, but less than 40.0%.

(6) *Moisture content.* Not more than 5.0% (as determined by weight of moisture on a milk solids not fat basis).

(7) *Scorched particle content.* Not more than 22.5 mg. for spray process and 32.5 mg. for roller process.

(8) *Solubility index.* Not more than 1.5 ml. spray process, and 15.0 ml. for roller process.

TABLE I.—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	U.S. extra grade	U.S. standard grade
Cooked.....	Definite.....	Definite.
Feed.....	Slight.....	Definite.
Bitter.....	.....	Slight.
Oxidized.....	.....	Slight.
Scorched.....	.....	Slight.
Stale.....	.....	Slight.
Storage.....	.....	Slight.

TABLE II.—CLASSIFICATION OF PHYSICAL APPEARANCE

Identification of physical appearance characteristics	U.S. extra grade	U.S. standard grade
Dry product:		
Unnatural color.....	None.....	Slight.
Lumps.....	Slight pressure.....	Moderate pressure.
Visible dark particles.	Practically free.....	Reasonably free.
Reliquified product:		
Grainy.....	Free.....	Reasonably free.

TABLE III.—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS

Laboratory tests	U.S. extra grade	U.S. standard grade
Bacterial estimate, SPC/gram.....	50,000	100,000
Coliform estimate/gram.....	10	10
Milkfat content, percent.....	(²)	(²)
	(³)	(³)
Moisture content, percent ¹	4.5	5.0
Scorched particle content, mg:		
Spray proc.....	15.0	22.5
Roller proc.....	22.5	32.5
Solubility index, ml:		
Spray proc.....	1.0	1.5
Roller proc.....	15.0	15.0

¹ Milk solids not fat basis.

² Not less than 26.0.

³ But less than 40.0.

§ 58.2706 Basis for oxygen content determination.

Oxygen content (if gas packed) is not a U.S. grade requirement. Percentage of oxygen content will be made available only on a U.S. graded product and the results will be shown on the grading certificate as follows:

Oxygen Content

Not more than 2% Oxygen	
or,	
Not more than 3% Oxygen	
or,	
Oxygen content	%

§ 58.2707 Optional tests.

There are certain test requirements in addition to those specified in section 58.2705. Testing for these requirements may be done occasionally at the option of the Department and will be done whenever they are requested by an interested party.

These optional requirements are as follows:

(a) *Copper content.* Not more than 1.5 p.p.m.

(b) *Iron content.* Not more than 10 p.p.m.

(c) *Titrateable acidity.* Not more than 0.15 percent.

(d) *Vitamin addition.* When either or both Vitamin A or D is added, they shall be present in such quantity that, when prepared according to label directions, each quart of the reconstituted product shall contain:

Vitamin A. Not less than 2,000 I.U.
Vitamin D. 400 I.U.

§ 58.2708 U.S. grades not assignable.

Dry whole milk shall not be assigned a U.S. grade for one or more of the following reasons:

(a) Fails to meet the requirements for U.S. Standard grade.

(b) Has a direct microscopic clump count exceeding 100 million per gram.

(c) Fails to meet the requirements for any optional tests as specified in section 58.2707, when such tests have been performed.

(d) Produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities, or to be operating under unsanitary plant conditions.

(e) Produced in a plant which is not USDA approved.

§ 58.2709 Test methods.

All required tests, and optional tests when specified, shall be performed in accordance with "Methods of Laboratory Analysis", DA Instruction No. 918-103 (dry milk products series),

Dairy Grading Branch, AMS, U.S. Department of Agriculture, Washington, DC 20250; and "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th Ed. or latest revision.

Explanation of Terms**§ 58.2710 Explanation of terms.**

(a) *With respect to flavor:*

(1) *Slight.* An attribute which is barely identifiable and present only to a small degree.

(2) *Definite.* An attribute which is readily identifiable and present to a substantial degree.

(3) *Undesirable.* Those flavors in excess of the intensity permitted or those not otherwise listed.

(4) *Bitter.* Similar to taste of quinine and produces a puckery sensation.

(5) *Cooked.* Similar to a custard flavor and imparts a smooth aftertaste.

(6) *Feed.* Feed flavors (such as alfalfa, weet-clover, silage, or similar feed) in milk carried through into the dry whole milk.

(7) *Oxidized.* A flavor resembling cardboard and sometimes referred to as "cappy" or "tallowy".

(8) *Scorched.* A more intensified flavor than "cooked" and imparts a burnt aftertaste.

(9) *Stale, Storage.* Lacking in freshness and imparting a "rough" or "harsh" aftertaste.

(10) *Sweet.* The lack of detectable acidity.

(b) *With respect to physical appearance:*

(1) *Practically free.* Is barely identifiable upon examination and present to a very small degree.

(2) *Reasonably free.* Is easily identifiable upon examination and present to a small degree.

(3) *Slight pressure.* Lumps fall apart with only light touch.

(4) *Moderate pressure.* Only sufficient pressure to disintegrate the lumps readily.

(5) *Grainy.* Minute particles of undissolved powder appearing in a thin film on the surface of a glass or tumbler.

(6) *Unnatural color.* A color that is more intense than light cream and/or is brownish, dull or grey-like.

(7) *Lumps.* Loss of powdery consistency but not caked into hard chunks.

(8) *Visible dark particles.* The presence of scorched or discolored specks readily visible to the eye.

(Agricultural Marketing Act of 1946, Sec. 203, 205, 60 Stat. 1087, as amended, 1090, as amended; 7 U.S.C. 1622, 1624)

Done at Washington, D.C. on November 9, 1982.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-31248 Filed 11-15-82; 8:45 am]
BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD**12 CFR Part 563**

[No. 82-728]

Federal Savings and Loan Insurance Corporation; Insurance Premiums

Dated: November 4, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: The Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is giving advance notice of a proposal to revise its regulations regarding deposit insurance premiums for the following purposes: (1) To provide for the assessment of premiums of up to one-eighth of one percent of insured accounts, in addition to the current premium of one-twelfth of one percent, in order to cover losses and expenses of the FSLIC; and (2) implies a "study" which the public should have a right to review in order to make valid comments to institute premium rebates in amounts calculated to reflect the insurance risk resulting from the condition and operations of each insured institution. In addition, the Board solicits public comment on the feasibility and desirability of a risk-indexed premium system, and requests comments on a tentative plan to quantify the insurance risk posed by each institution. The Board believes that development of such proposals could result in a more equitable distribution of insurance costs and would serve to promote the safety and soundness of the industry.

DATE: Comments must be received by: January 10, 1983.

ADDRESS: Comments should be sent to Director, Information Services, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C., 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Jerry Hartzog (202-377-6782), Director, Policy Analysis Division, Office of Policy and Economic Research, or Michael D. Schley (202-377-6444).

Attorney, Policy and Projects Division, Office of the General Counsel, Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION: Since the inception of the FSLIC's deposit insurance program in 1934, insured thrift institutions have been assessed premiums on a flat-rate basis. For the last thirty-two years, the basic premium rate has been set at one-twelfth of one percent of all insured deposits. The unprecedented effects of the recent economic climate on the condition of the thrift industry and the corresponding impact on the insurance risk of the FSLIC have caused the Board to reconsider the desirability of continuing the present flat-rate premium system.

The Board is considering changing the existing premium system in two ways: one, raising the total level of premium collections in order to place the FSLIC fund on a sounder actuarial basis; and two, implementing a partial risk-sensitive premium system in which high-risk associations would bear a larger burden of the costs of insurance than would low-risk associations.

The first issue of concern to the Board is whether the current assessment of one-twelfth of one percent of insured accounts will continue to produce adequate reserves to protect deposits at insured institutions. This concern is underscored by the large number of financially assisted mergers, in 1981 and 1982, and the continuing decline in the average net worth of the industry. The Board believes that the increased assistance expenditures of the past two years indicate that a review of the actuarial soundness of the fund is appropriate.

The second issue is the desirability of a risk-sensitive insurance premium structure such as those utilized by private-sector insurance companies. A risk-sensitive premium structure is being considered to accomplish several objectives: deregulation, safety and soundness, equity, and efficiency. First, such a system would permit the Board to substitute a more realistic pricing system for deposit insurance and would naturally moderate risk-taking by associations by simulating the discipline of free-market pricing. Second, such a system would tend to encourage safe and sound operations by associations by internalizing the costs of risk-taking. Third, such a system would be more equitable: associations that impose the highest risk exposure to the FSLIC fund would have to bear a related share of insurance costs. Finally, because such a system would naturally induce risk-adverse behavior by associations and

encourage more intense managerial control of an institution's spreads, the size of the FSLIC fund that is adequate to meet the needs of the industry would ultimately be less and the average level of FSLIC fees levied upon associations should ultimately be correspondingly lower.

The Board has the ability to reshape the FSLIC insurance premium structure in accordance with the terms and limitations included in Section 404 of the National Housing Act (12 U.S.C. 1727) on the amount of premiums and the circumstances under which they may be assessed. Consequently, this Resolution describes the Board's consideration of future proposed rulemaking that would authorize the assessment of additional premiums and permit the equivalent of risk-indexed premiums only with respect to those additional amounts. This Resolution also describes a tentative plan for rating institutions on the basis of insurance risk, and solicits comments on a pure risk-indexed scheme in connection with a Congressionally mandated study of the issue.

The Board action is framed as an advance notice of proposed rulemaking. As a result, the Board will have the benefit of public comment on the many issues involved prior to its consideration of any formal proposed rule.

Assessment of Supplemental Premiums

Section 404(c) of the National Housing Act (12 U.S.C. 1727 (c)) provides that the FSLIC may assess, in addition to the base premium of one-twelfth of one percent of insured accounts, a supplemental premium of one-eighth of one percent "until the amount of such premiums equals the amount of all losses and expenses of the Corporation." The legislative history of this provision indicates that supplemental premiums may be assessed to cover all prior losses and expenses of the FSLIC, not just those incurred in the immediately preceding year. The statute gives the FSLIC the discretion not to assess supplemental premiums in any given year; this discretion has been exercised recently, in spite of significant losses, in order to avoid imposing an additional economic burden on the industry. However, the Board, in its capacity as operating head of the FSLIC, has determined that it may be necessary to exercise this authority in the near future in order to maintain the primary reserve at a level adequate to cover liabilities incurred in recent assistance agreements and liabilities expected to be incurred under the capital assistance plan authorized by the Depository Institutions Act of 1982.

Consequently, the Board is considering proposed rulemaking that would implement the supplemental premium authority in Section 404(c) of the Act, permitting the FSLIC to exercise this authority in future premium years. Although the Board views the decision to supplement the primary reserve as one committed to the discretion of the agency, it requests comments regarding the hardship, if any, that supplemental premiums of as much as one-eighth of one-percent may impose on the industry. Additionally, the Board requests comments on the desirability of a five-year, straight-line phase-in of this supplemental premium.

Risk-Indexed Variable-Rate Premiums

Consideration of Proposed rulemaking. As mentioned earlier, the FSLIC's authority to assess primary reserve premiums under Section 404 of the National Housing Act is generally set forth in terms of flat-rate ceilings. However, the Board has developed a plan that it believes could achieve the equivalent of a partial risk-indexed variable-rate premium structure within the perimeters established by Section 404.

Through proposed rulemaking currently under consideration, the Board would continue to assess flat-rate base premiums of at least one-twelfth of one percent of insured accounts and supplemental premiums of up to one-eighth of one percent, which would be paid on the insurance anniversary date of each institution. The effect of a variable-rate premium would be achieved by declaring variable-rate rebates of only the supplemental one-eighth-of-one-percent premium, to be distributed at the end of each year by the FSLIC. Each year the Board would review the conditions and needs of the FSLIC fund and declare a total rebate to the industry that would be commensurate with the net collection needs of the fund. The amount of the rebate to be given to each institution would be determined on the basis of risk criteria developed by the staff of the FSLIC, accepted actuarial principles, and other factors relating to the purposes underlying Title IV of the National Housing Act. The Board believes that this system would be consistent with the premium guidelines set forth in Section 404 of the National Housing Act; is within the Board's authority to make premium adjustments, refunds, and deferrals, as established in Section 6 of Public Law No. 91-151 (83 Stat. 396 (1969)); and is within the Board's authority to promote the safety and soundness of insured institutions

under Title IV of the National Housing Act.

In preparation for possible implementation of the risk-indexed rebate scheme, the Board's staff has examined several possible criteria for rating the insurance risk posed by individual institutions. Although there are many indicators of the probability of an institution's failure, such as its net worth, profitability, efficiency, management effectiveness, asset quality (based on credit risk, collateral, etc.), and the extent to which assets and liabilities have matching maturities, the Board's staff has developed a preliminary model for rating risk that focuses on only those factors relating to the vulnerability of institutions to a volatile interest-rate environment. In designing a risk-sensitive premium, the staff has recommended that at this time interest-rate risk should be the determining factor; thus "management risk" or "credit risk" would not be considered in evaluating the riskiness of individual associations under this initial plan.

Management risk would not be included as a risk factor because of the inherently subjective nature of such an evaluation. There do not appear to be any reliable, accurate, objective measures of management effectiveness that could be used at present. Including management risk would require a subjective evaluation by Board supervisory staff. Such a system would introduce variability in evaluations because such evaluations would have to be performed by a large number of individuals. The inherent variability of such a system has led the staff to exclude management risk from its tentative recommended plan.

Credit risk has been the subject of many studies on financial institution riskiness. However, the Board has chosen at this time to focus on interest-rate risk and to exclude consideration of credit risk for several reasons. First, at present association risk exposure consists almost exclusively of interest-rate risk rather than credit risk. Second, interest-rate risk can be measured very easily while credit-risk measurement is very complicated. The measurement of credit risk would require considerable research into the loss experience on different types of loans, the beneficial effects of portfolio diversification, and individual and regional differences among associations. Finally, associations can quickly adjust interest-rate risk levels through hedging in financial futures markets, whereas no comparable measures exist for offsetting credit risk. However, the Board

recognizes and expects that the interest-rate risk exposure of associations will be decreasing and credit-risk exposure will be increasing in the future as associations diversify their portfolios. Consequently, the Board would consider adding credit risk, and other indicia of insurance risk, as it further refines its model in the future.

The tentative plan for rating risk would examine the hypothetical effect on an institution of a 500-basis-point rise in market interest rates. The 500-basis-point magnitude is not crucial; the size of the assumed increase does not affect the level of insurance rebates. The plan would involve several steps. First, the institution would compute a mark-to-market adjustment of assets and liabilities for a 500-basis-point increase in interest rates. Second, the institution would compute any net gains on hedge positions in financial futures and options markets. Third, the net adjustments of items in steps one and two would be compared to the net worth of the association to determine a "Risk Factor" for that association. Fourth, those Risk Factors would be used to distribute the total insurance rebate that is declared by the Board. The associations with below-average risk would receive above-average rebates, and *vice versa*. The rebates would be scaled on a continuum according to these Risk Factors, rather than using discrete categories of associations.

The Board formally requests comments on both: (1) Issues relating to the proposed regulatory amendments (*i.e.*, the overall desirability of risk-indexed premiums, the appropriateness of the factors described above, and the consistency of the described rebate plan with the statutory scheme), and (2) the suitability of the tentative risk-rating scheme outlined above.

Further study of risk-indexed premiums. In addition to the specific elements described above in connection with a risk-indexed rebate scheme consistent with existing statutory authority, the Board is considering the desirability of a pure variable-rate schedule for primary reserve premiums as part of a study mandated by Section 712 of the Garn-St Germain Depository Institutions Act of 1982. The Board believes flexible statutory authority for variable-rate premiums, such as that found in 7 U.S.C. 1508(b) (crop insurance), 29 U.S.C. 1306 (coverage for pension benefits, and 42 U.S.C. 4014 (flood insurance), would be desirable because: (1) It would permit the Board to establish premium limits more appropriate to the needs of the FSLIC than the decades-old limits now

imposed by Section 404(c) of the National Housing Act, and (2) it would permit a variable-rate scheme less cumbersome than the rebate procedure described above. In connection with its study, the Board requests comments on: (1) The necessity of statutory premium ceilings, (2) appropriate measures of the reserve needs of the FSLIC, and (3) suitable criteria on which variable-rate premiums should be based, as well as any other related issues on which the public may wish to comment.

(12 U.S.C. 1724-28, 1730; Pub. L. 91-151 of Dec. 23, 1969, sec. 6 (83 Stat. 396); Reorg. Plan No. 3 of 1947, 12 FR 4891, 3 CFR 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Acting Secretary.

[FR Doc. 82-31295 Filed 11-15-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 22745; Ref. Notice No. 82-4]

Flight Crewmember Flight Time Limitations and Rest Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws Notice 82-4 published in the *Federal Register* on March 11, 1982. (47 FR 10748). That notice proposed to revise the flight time and rest requirements for flight crewmembers used by domestic, flag, and supplemental air carriers and commercial operators, and air taxi operators and commercial operators. The notice is being withdrawn because the proposals have become apparently difficult to understand and the Agency has received widely varying comments. The FAA, however, will continue to review actively the existing flight time limitations regulations and will issue a new proposal after this review is complete.

FOR FURTHER INFORMATION CONTACT: Larry Bedore, Project Development Branch (AFO-240), Office of Flight Operations, Federal Aviation Administration, 800 Independence Ave., SW., Washington, D.C. 20591; telephone (202) 472-4621.

SUPPLEMENTARY INFORMATION:**Background**

On February 16, 1982, the FAA issued Notice 82-4 (47 FR 10748; March 11, 1982). The notice proposed a substantial revision to the flight and duty time regulations applicable to flight crewmembers utilized by domestic, flag, and supplemental air carriers and commercial operators, and air taxi operators and commercial operators. The amount of regulatory material would be substantially reduced and simplified, and a set of common standards would be applied to all flight crewmembers, without distinction based on whether they performed in scheduled airline operations, on-demand air taxi operations, helicopter operations, or other forms of air carrier or commercial flight operations. The notice represented, in effect, a studied attempt to de-regulate in the sense that more discretion would be left to the operator's management to determine the details of flight crewmember flight time and rest periods. At the same time, however, the notice also represented the FAA's best efforts to provide adequate rest provisions and to respond to a changed operating environment.

Reasons for the Withdrawal

As might be expected on a subject so inherently controversial, vast volumes of initial comments and reply comments have been received. The comments contend that the proposals are difficult to understand, do not deal adequately, or at all, with certain operational aspects affecting pilot fatigue (circadian rhythm or diurnal cycle, for example) or do not address the widely varying needs of operators. The FAA appreciates the responses of all commenters. In particular, the Agency notes the response of the Air Line Pilots Association which, in extensive comments, opposed the notice. Similarly, but for different reasons, helicopter operators in the 48 conterminous states, Alaskan operators, and the Regional Airline Association, to name only a few, expressed varying degrees of concern with the concepts in the notice.

Against this mass of material and sincerely voiced opposition and criticism, I have decided that this notice should not go forward and must be withdrawn in order to allow the Agency to conduct an immediate reassessment of this effort. This does not mean, however, that the FAA is cancelling its efforts to streamline and improve these regulations. The FAA will continue its rulemaking efforts in this area and is considering a public hearing to receive

views, suggestions, and help from all interested persons as part of the Agency's review. This is consistent with the FAA's record of public participation in rulemaking and illustrates its commitment to continuance of that record. This will also enable the Agency to better respond to the issues raised in the comments and will enable the Agency to review the rulemaking in accordance with Executive Order 12291.

The Decision and Withdrawal

Accordingly, Notice 82-4 is withdrawn.

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on November 10, 1982

Michael J. Fenello,
Deputy Administrator.

[FR Doc. 82-31385 Filed 11-12-82; 12:50 pm]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY**Customs Service****19 CFR Part 134****Country of Origin Marking Requirements for Imported Audio Cassette Shells**

AGENCY: Customs Service, Treasury.

ACTION: Proposed change of position—request for comments.

SUMMARY: Under certain circumstances imported articles may be excepted from the requirement that they be marked to indicate their country of origin to ultimate purchasers. This document gives notice that the Customs Service is reviewing its present position of not requiring country of origin markings on imported audio cassette shells. If the proposal is adopted, the individual cassette shells would be subject to the marking requirements.

DATE: Comments must be received on or before January 17, 1983.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Tony Piazza or Fred Burns-O'Brien, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8567).

SUPPLEMENTARY INFORMATION:**Background**

Section 304(a), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)), provides that unless expressly excepted, every imported article of foreign origin, (or its container) shall be legibly and conspicuously marked to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. Part 134, Customs Regulations (19 CFR Part 134), sets forth the regulations implementing the country of origin marking requirements and the exceptions of 19 U.S.C. 1304(a).

Section 134.35, Customs Regulations (19 CFR 134.35), provides that an article used in the United States in manufacture which results in an article having a name, character, or use differing from that of the imported article, will be within the principle of the decision in the case of *United States v. Gibson-Thomsen Co., Inc.*, 27 CCPA 267 (C.A.D. 98). Under this principle, the manufacturer or processor in the United States who converts or combines the imported article into the different article will be considered the "ultimate purchaser" of the imported article within the contemplation of 19 U.S.C. 1304(a), and the article shall be excepted from marking.

The "ultimate purchaser" is generally the last person in the United States who receives the article in the form in which it was imported. Under § 134.1(d)(1), Customs Regulations (19 CFR 134.1(d)(1)), if an imported article will be used in manufacture, the manufacturer may be the "ultimate purchaser" if he subjects the article to a process which results in its substantial transformation, even though the process may not result in a new or different article.

By a decision dated June 14, 1978 (MAR-2-05-R:ER 709123 JB), Customs ruled that audio cassette shells were not required to be individually marked with the country of origin because the addition of the magnetic tape constituted a substantial transformation within the principle of the decision in *United States v. Gibson-Thomsen Co., Inc.*, *supra*, and under section 134.35, Customs Regulations.

Based upon a petition submitted on behalf of several domestic manufacturers of cassette shells, Customs has reviewed the exception from the country of origin marking requirements of these articles upon which its decision was based. A re-examination of the factual underpinning of that decision establishes that the technological aspects of a cassette shell were insufficiently considered. Customs now finds, based on more complete

information and a careful analysis of that information, that the addition of the tape does not constitute a substantial transformation and therefore the exception provided in § 134.35 does not apply.

Cassette shell manufacture involves a number of steps. The first step is the molding process. Styrene and acetal resins are molded into the plastic parts of the cassette shell which form the outer shells of the tape cassette, the hubs onto which the magnetic tape is pinned, and the rollers which guide the tape along its path through the cassette.

After the molding procedure, the next step is the assembly of the shells. The following parts are used: (1) Screws to attach the two halves of a molded cassette shell; (2) leader tape onto which the magnetic tape will be spliced; (3) pressure pads to press the tape against the tapehead in a cassette deck; (4) shields; (5) roller pins; (6) clear windows; and (7) plastic liners. The assembly process of these parts begins with the installation of windows and liners into the shell halves. Next, approximately three feet of leader tape is pinned to the hubs and then the roller pins, rollers, leader tape, hubs, shield, and pressure pads are installed into the shell halves. The final step in the assembly process is the welding or screwing together of the two shell halves to make a complete cassette shell, which is a fully functional tape cassette, except that it does not contain the magnetic tape.

The complete cassette shells are then sold to loader-duplicators in the United States who splice blank or pre-recorded magnetic tape onto the leader contained in the shell. The loaded cassette is sold to retail customers, either directly or through standard distribution channels.

While the determination of substantial transformation is made on a case-by-case basis, the rulings point to several criteria in making this determination. The major factor to be considered is the further processing done in the United States. Other factors include the time, cost, other materials, skills, and special machinery required to complete that processing.

The cassette shell is a sophisticated mechanism which is manufactured through an expensive and technologically-advanced process. The addition of the magnetic tape to this highly sophisticated article, which contains 17 parts, is tantamount to loading film in a camera; it is important to the working of the article but does not transform it into a new or different article, or otherwise change its essential character.

The actual loading process is a relatively simple operation which is considerably less sophisticated and costly than the manufacture of the shell which involves the use of expensive equipment, materials, and skilled personnel. In contrast, many loader-duplicators operate on a very small scale. In *Gibson-Thomsen, supra*, the court found that certain imported toothbrush and hairbrush handles were substantially transformed when bristles were added, noting that the handles accounted for only a small fraction of the value of the final products. This is not true in the cassette market. The cost of the processing performed by the loader-duplicator is negligible compared to the cost of manufacturing the shell, which is the crucial element in the operation of the finished product (tape cassette).

Although the loader-duplicator might know the country of origin of the cassette shells by the markings on the shipping container, or otherwise, the consumer of the tape cassette has no way of knowing its origin without the marking directly on the shell. Congress enacted the country of origin marking requirement to inform consumers of an article's foreign origin and to give domestic manufacturers an advantage by allowing the consumer to exercise a preference for American goods. Customs believes that these goals would be thwarted if audio cassette shells continued to be imported with no markings.

See also three recent Court decisions which relate to this matter: *Uniroyal, Inc. v. United States*, No. 82-3-00404 (Slip Op. 82-45), June 10, 1982, and *Texas Instruments, Inc. v. United States*, -CCPA-, Slip Opinion, June 23, 1982. Additionally, we believe that the holding and its rationale in *Grafton Spools, Ltd. v. United States*, 45 Cust. Ct. 16, C.D. 2190 (1960) should be mentioned.

Proposed Change of Position

Customs has concluded that individual marking of the tape cassette shell is necessary to ensure that an ultimate purchaser (consumer) in the United States will be aware of the country or origin of the tape cassettes. Therefore, Customs proposes to rescind its ruling of June 14, 1978, and require the appropriate markings in full compliance with section 304(a) and the applicable regulation. Inasmuch as the statute permits the article or its container to be marked, consideration will be given to the marking of the containers in which the tape cassettes are sold at retail in lieu of marking the

shells. Public comment is solicited on this alternate method of marking.

Authority

Inasmuch as the proposed change will effect the present Customs position relating to marking of audio cassette shells, Customs is giving interested parties notice and an opportunity to comment in accordance with section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), section 134.35, Customs Regulations (19 CFR 134.35), and § 177.10(c)(2), Customs Regulations (19 CFR 177.10(c)(2)).

Comments

Before taking any further action on this matter, consideration will be given to any written comments, preferably in triplicate, timely submitted to the Commissioner of Customs. The petition requesting the proposed change of position and comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Headquarters, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Drafting Information

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Alfred R. De Angelus,
Acting Commissioner of Customs.

Approved: October 25, 1982.
John M. Walker, Jr.,
Assistant Secretary of the Treasury.

[FR Doc. 82-31296 Filed 11-15-82; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 177

[069263]

Powernet Fabric; Change of Practice Considered

AGENCY: Customs Service, Treasury.

ACTION: Proposed change of practice—request for comments.

SUMMARY: This document gives notice that Customs is reviewing its current established and uniform practice of classifying certain powernet fabric as netting. Customs is considering classifying that merchandise as knit fabrics of man-made fibers, and seeks

public comment on the proposed change of practice.

DATE: Comments (preferably in triplicate) must be received on or before January 7, 1983.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Philip Robins, Classification and Value Division, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to an established and uniform practice; based on importations, Customs has classified certain powernet fabric under the provision for netting, in the piece, made on a lace, net, or knitting machine, other, in item 352.80, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202).

However, information has been made available to Customs to indicate that although the term "powernet" may have commercial significance to the consumer or other nonexport in a marketing or merchandising sense, the term is in fact a misnomer because the actual construction of the fabric in question is that of a knit fabric. In addition, it appears that powernet fabrics are not known technically by experts in the trade as net fabrics, and garments made from powernet fabrics are classified by Customs as knit garments.

Proposed Change of Practice

On the basis of the above information, Customs has determined that the established and uniform practice of classifying certain powernet fabric as netting, *etc.*, in item 352.80, TSUS, is clearly wrong. It is Customs position that the powernet fabric in question, which is a stretch knit with a "brickwork" or "honeycomb" construction of elastic man-made fibers (not rubber) and a very small amount of open work, used in the manufacture of women's foundation and body supporting garments, is properly classifiable under the provision for knit fabrics of man-made fibers, in item 345.50, TSUS, at a higher rate of duty.

Authority

Inasmuch as the proposed change of practice, if implemented, will increase the amount of duties assessed on the merchandise, Customs is giving this notice and opportunity for comment as provided by section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)),

and section 177.10(c)(1), Customs Regulations (19 CFR 117.10(c)(1)).

Comments

Before taking any further action on this matter, consideration will be given to any written comments submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), during the hours of 9:00 a.m. to 4:30 p.m. on normal business days, at the Regulations Control Branch, Headquarters, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: November 5, 1982
 William von Raab,
 Commissioner of Customs.
 [FR Doc. 82-31299 Filed 11-15-82; 8:45 am]
 BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1 and 101

[Docket No. 81P-0298]

Proposed Exemption of Required Label Statement for Soft Drinks in Cans

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

SUMMARY: The Food and Drug Administration (FDA) is proposing to grant an exemption to manufacturers of soft drinks in cans from placement requirements for required label statements. This proposed exemption would permit the name of the manufacturer, packer, or distributor of soft drinks in cans to be declared on the lid of the can. This action is based on a petition submitted to FDA by the American Can Co. FDA will permit manufacturers of soft drinks in cans to label soft drinks in cans in accordance with the proposed exemption prior to publication of a final regulation.

DATES: Comments by January 17, 1983. FDA proposes that the final rule based on this proposal become effective on the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Dockets Management Branch (HFA-

305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond W. Gill, Bureau of Foods (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: The American Can Co. submitted to FDA a petition requesting that the agency issue a regulation granting an exemption to manufacturers of soft drinks in cans from the placement requirements of § 101.2(b) (21 CFR 101.2(b)). The exemption would permit the name of the manufacturer, packer, or distributor to be declared on the lid of the can. This proposed exemption would provide to manufacturers of soft drinks in cans the same flexibility as that now possessed by manufacturers of soft drinks in glass bottles.

In addition, the petitioner also submitted a supplemental request requesting that manufacturers of soft drinks in cans be permitted to label cans in accordance with provisions of the proposal prior to publication of a final rule.

The petitioner asserts that the proposed regulation is needed because of the way metal cans are manufactured and thereafter filled with soft drinks. A majority of the brands of nationally advertised soft drinks are, in fact, produced from a concentrate and bottled or canned by regional franchisees of the trademark holder. The labeling of a particular brand is identical nationwide with the exception of the identification of the specific franchisee that fills the metal can or glass bottle.

For soft drinks in both metal cans and glass bottles, the open-top container is made by a container manufacturer in either a can-making or bottle-making plant, and because the labeling on the open-top container is identical for all franchisees (except for franchisee identification), this labeling is applied most economically at the container plant. These labeled open-top containers are then shipped to the soft drink franchisee's plant where they are filled with the appropriate soft drinks and then sealed with a metal can lid or bottle top.

Under §§ 1.24(a)(5)(ii) and 101.5(a) (21 CFR 1.24(a)(5)(ii) and 101.5(a)), the label of a food in package form or multiunit retail food packages must "specify conspicuously the name and place of business of the manufacturer, packer, or distributor." Section 101.2(b) requires that this information be disclosed on

either the information panel or the principal display panel of the food.

In support of its petition, American Can Co. points out that there is currently a distinction between cans and bottles with respect to label identification of the franchise. For cans, the franchisee must be identified on the information panel of the open-top container, whereas for glass bottles, such identification may appear on the top or cap of the bottle. This distinction imposes a significant additional cost burden on manufacturers of soft drinks in cans by placing cans at a cost disadvantage in relation to glass bottles. The petitioner states that the current requirement imposes unnecessary costs on can manufacturers, soft drink canners, and, ultimately, consumers. The petitioner asserts that this proposed regulation would result in significant cost savings, without affording less protection or information to consumers, and it would place soft drinks in cans on par with soft drinks in bottles. The petitioner believes that placement of the name of the actual canner on the lid of the can fully complies with the requirement of § 101.5(a) that the declaration be conspicuous. In addition to providing cost savings and conspicuously providing information to consumers, the proposal affords much-needed flexibility to can manufacturers. A manufacturer with more than one production plant would be able to fill orders for a particular brand of soft drink can from any plant with adequate inventory. Flexibility in scheduling production would also be enhanced.

FDA has considered the petition and proposes to grant an exemption from the placement requirements of § 1.24(a) and § 101.2(b) to permit manufacturers of soft drinks in cans to declare the name and place of business of the manufacturer, packer, or distributor on the lid of the can. Under this exemption, the lid of the can, which is applied by the soft drink canner, would bear the canner's name and address, as required by § 101.5.

Accordingly, under the proposed exemption can manufacturers would be permitted to either emboss or print the name of the soft drink canner on the lid provided the operation of the closure tab does not remove or obscure the declaration. If it is embossed, the petitioner's proposal would require that the type size of the embossed letters be at least one-eighth inch in height, twice the type size required for printed matter. If the declaration is printed, the proposal would require that the type size not be less than one-sixteenth inch in height. To enhance legibility, the

embossed or printed declaration would be allowed to follow the curvature of the lid. The type-size requirements are specified in the citizen's petition received and parallel those requirements now in effect for soft drinks in bottles.

FDA has also considered the petitioner's supplemental request and agrees to permit manufacturers of soft drinks in cans to label soft drinks in cans in accordance with provisions of this proposal prior to publication of a final rule.

The agency has determined pursuant to 21 CFR 25.24(d)(13) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The agency has examined the economic consequences of this proposed rulemaking and has determined that it does not require a regulatory impact analysis, as specified in Executive Order 12291. The petitioner who requested this exemption concludes that it will decrease the costs of metal cans used to package soft drinks, thereby relieving unnecessary costs on the can manufacturers, soft drink canners, and ultimately, consumers. Maintaining inventories of can lids embossed or printed with the names of different canners is obviously less expensive than maintaining inventories of can bodies which may be used by only one canner. Because most soft drink canners are small businesses, it is possible that this exemption will provide a significant benefit to small businesses. The agency concludes that the information in the petition and this preamble constitute the data required in an initial regulatory flexibility analysis as specified by the regulatory Flexibility Act (Pub. L. 96-354). The apparent alternative to this exemption, namely no exemption, would be less favorable to small businesses. It is speculative to estimate the number of small firms that might take advantage of this exemption, but the petition suggests that it may provide a significant favorable benefit to those small firms that chose to relocate information to the lid of the can.

List of Subjects

21 CFR Part 1

Cosmetics, Drugs, Exports, Food labeling, Imports, Labeling.

21 CFR Part 101

Food labeling, Misbranding, Nutrition labeling, Warning statements.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 403(e), 701(a), 52 Stat. 1047 as amended, 1035 (21 U.S.C. 343(e), 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Chapter I of Title 21 of the Code of Federal Regulations is amended in Parts 1 and 101 as follows:

PART 1—GENERAL REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

1. Part 1 is amended in § 1.24 by adding new paragraph (a)(5)(v), to read as follows:

§ 1.24 Exemptions from required label statements.

* * * * *

(a) * * *

(5) * * *

(v) A multiunit retail package for soft drinks in cans shall be exempt from the declaration regarding name and place of business required by § 101.5 of this chapter if the package does not obscure the declaration on unit containers or if it bears a statement that the declaration can be found on the unit containers and the declaration on the unit containers complies with § 101.5 of this chapter. The declaration required by § 101.5 of this chapter may appear on the top of soft drinks in cans if the statement is conspicuous and easily legible, provided that when the declaration is embossed, it shall appear in type size at least one-eighth inch in height, or if it is printed, the type size shall not be less than one-sixteenth inch in height. The declaration may follow the curvature of the lid of the can and shall not be removed or obscured by the tab which opens the can.

* * * * *

PART 101—FOOD LABELING

2. Part 101 is amended in § 101.2 by revising paragraph (c)(4)(ii)(a), to read as follows:

§ 101.2 Information panel of package form food.

* * * * *

(c) * * *

(4) * * *

(ii) * * *

(a) If the soft drink is packaged in a bottle bearing a paper, plastic foam jacket, or foil label, or is packaged in a nonreusable bottle bearing a label

lithographed onto the surface of the bottle or is packaged in metal cans, the product shall not be exempt from any requirement of this section other than the exemptions created by § 1.24(a)(5)(ii) and (v) of this chapter and the label shall bear all required information in the specified minimum type size, except the label will not be required to bear the information required by § 101.5 if this information appears on the bottle closure or on the lid of the can in a type size not less than one-sixteenth inch in height, or if embossed on the lid of the can in a type size not less than one-eighth inch in height.

Interested persons may, on or before January 17, 1983 submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 12, 1982.

Mark Novitch,
Acting Commissioner of Food and Drugs.

[FR Doc. 82-31287 Filed 11-15-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Public Comment Period and Opportunity for Public Hearing on Proposed Modifications to the Maryland Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of certain program amendments submitted by the State of Maryland as modifications to the Maryland Permanent Regulatory program under the Surface Mining

Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments must be received on or before 4:00 p.m. on December 16, 1982 to be considered. A public hearing on the proposed modifications will be held on request only, on December 7, 1982, from 7:00 p.m. to 9:00 p.m. or until all comments have been heard.

Any person interested in making an oral or written presentation at the hearing should contact Mr. David H. Halsey at the Charleston, West Virginia address and phone number listed below by the close of business on November 30, 1982. If no one has contacted Mr. Halsey to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Halsey, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Attention: Maryland Administrative Record, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158.

The public hearing will be held in the auditorium of Beall High School, Frostburg, Maryland.

Copies of the proposed amendments and the Maryland program are available for review at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158

Office of Surface Mining Reclamation and Enforcement, Morgantown Field Office, Federal Building, Room 229, 75 High Street, Morgantown, West Virginia 26505, Telephone: (304) 291-5821

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, N.W., Washington, D.C., Telephone: (202) 343-7428

Maryland Bureau of Mines, 69 Hall Street, Frostburg, Maryland 21532, Telephone: (301) 689-4136

FOR FURTHER INFORMATION CONTACT: David H. Halsey, Director, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158.

SUPPLEMENTARY INFORMATION: On March 3, 1980, OSM received a proposed regulatory program from the State of Maryland. This proposed program was conditionally approved by the Secretary of the Interior on December 1, 1980 (45 FR 79430-79451). On February 18, 1982, following submission of program amendments to satisfy the conditions of approval, the Maryland program was fully approved by the Secretary (47 FR 7214-7217).

On October 28, 1982, the State of Maryland submitted certain proposed regulations (Administrative Record Number MD 194) to replace those contained in its approved program. Copies of the proposed regulations are available for review at the offices indicated above or may be obtained at no charge by contacting OSM at the Charleston, West Virginia address above. OSM now seeks public comment on the adequacy of the proposed regulations.

Additional Determinations

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291 for all actions to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB are not needed for this proposed rule.

This rule is deemed not to be a major Federal action within the meaning of section 102(2)(c) of NEPA. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, this rule is exempt from the requirements of an Environmental Assessment or EIS.

Pursuant to the Regulator Flexibility Act, Pub. L. 95-354, I have certified that this rule will not have a significant economic effect on a substantial number of small entities.

List of Subjects in 30 CFR Part 920

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: November 10, 1982.

J. Steven Griles,
Acting Director, Office of Surface Mining.

[FR Doc. 82-31367 Filed 11-15-82; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 946

Cancellation of Public Hearing on Modified Portions of the Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Cancellation of public hearing.

SUMMARY: OSM is announcing the cancellation of a public hearing on the substantive adequacy of program amendments to Virginia's alternative bonding regulations pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and 30 CFR 732.17.

This notice cancels the public hearing because no one expressed an interest in attending the hearing by November 8, 1982, but does not alter the time and location at which the Virginia program and proposed amendments are available for public inspection, or the comment period during which interested persons may submit written comments on the proposed elements.

DATE: The following hearing is cancelled: The public hearing on the proposed amendments to the Virginia program, November 17, 1982.

ADDRESS: Written comments should be mailed or hand delivered to: Ralph Cox, Field Office Director, Virginia Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 626, Big Stone Gap, Virginia 24219.

Copies of the Virginia program, the proposed amendments to the program, a listing of scheduled public meetings, and all written comments are available for review at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240;

Office of Surface Mining Reclamation and Enforcement, Highway 23, South, Big Stone Gap, Virginia 24219;

Office of Surface Mining Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266;

Virginia Division of Mined Land Reclamation, 620 Powell Avenue, Big Stone Gap, Virginia 24219.

FOR FURTHER INFORMATION CONTACT: Ralph Cox, Field Office Director, Virginia Field Office, Office of Surface Mining, P.O. Box 626, Big Stone Gap, Virginia 24219; telephone (703) 523-4303.

SUPPLEMENTARY INFORMATION: On September 30, 1982, Virginia submitted to OSM, proposed program amendments

to its alternative bonding regulations (Administrative Record No. VA 431). The proposed amendments to the Virginia regulations appear at V809.6 to add a definition of "cognovit note"; at V809.6 and V809.13 to clarify the type of certification required for a self-bond from an applicant; and at V809.14 to clarify that payment into the Fund is within 30 days after the end of each taxable calendar quarter.

On November 1, 1982, notice of opportunity for public hearing on the proposed amendments to the Virginia program, was published in the *Federal Register* (47 FR 49412-49413). The notice stated that any person interested in making an oral or written presentation at the hearing should contact Mr. Cox by November 8, 1982, and that if no person contacted Mr. Cox to express an interest in participating in the hearing by the above date, the hearing would be cancelled.

Because no one expressed an interest in attending the hearing by November 8, 1982, the hearing has been cancelled.

While there is no public hearing, interested persons may still submit written comments on the proposed program elements. Written comments not received on or before 4:00 p.m. on December 1, 1982, may not necessarily be considered in the Director's decision on whether the proposed amendments are acceptable.

Dated: November 8, 1982.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 82-31368 Filed 11-15-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[A-4-FRL 2243-3]

Approval and Promulgation of Implementation Plans; Receipt of Implementation Plans From North Carolina, Georgia, Kentucky, and Tennessee

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of State Implementation Plans and request for comments.

SUMMARY: The purpose of this notice is to acknowledge the submittal of SIP revisions to EPA from the State of North Carolina on June 17, 1982, the State of Georgia on July 30, 1982, the Commonwealth of Kentucky on June 30 (Louisville Draft) and September 27,

1982 (Final for Northern Kentucky) and the State of Tennessee on June 30, 1982.

EPA plans to propose either approval or disapproval of the SIPs in the near future, based on evaluations currently in progress. At this time, we are soliciting comments on any aspect of the SIPs.

A brief summary of each SIP revision is contained in the Supplementary Information section of this notice. Interested persons are invited to inspect the revised SIP submittals at the locations listed below.

The submittals are necessary as a requirement for an extension of the attainment of national ambient air quality standards for ozone and carbon monoxide.

DATE: Comments may be submitted until further notice.

ADDRESSES: The revised SIP submittals are available for public inspection at the following addresses (comments should be submitted to the first address listed):

U.S. Environmental Protection Agency, Air Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Attn: Douglas Cook, Phone: 404/881-2864 or FTS 257-2864

State of North Carolina—Division of Environmental Management, N.C. Department of Natural Resources and Community Development, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611

State of Georgia—Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, S.W., Atlanta, Georgia 30334

Commonwealth of Kentucky—Division of Air Pollution Control, Kentucky Department for Environmental Protection, 18 Reilly Road, Building 2, Fort Boone Plaza, Frankfort, Kentucky 40601

State of Tennessee—Division of Air Pollution Control, Tennessee Department of Public Health, 150 9th Avenue North, Nashville, Tennessee 37203

FOR FURTHER INFORMATION CONTACT: Douglas Cook (404/881-2864 or FTS 257-2864).

SUPPLEMENTARY INFORMATION:

In circumstances where a State or local area has received an extension beyond 1982 for attaining the National Ambient Air Quality Standards (NAAQS) for ozone or carbon monoxide, the Clean Air Act Amendments of 1977 (Section 129(c) of Pub. L. 95-95) require the State or local area to adopt and submit a State Implementation Plan (SIP) revision to the Administrator of EPA by July 1, 1982. This SIP revision must demonstrate

attainment of the NAAQS as expeditiously as practicable, but not later than December 31, 1987. As a condition for extending the attainment date, Congress required that each SIP contain certain control provisions covering stationary sources, vehicle inspection/maintenance (I/M) programs and transportation measures. These control provisions must be included in the SIP for any area where an extension has been granted, regardless of the date after December 31, 1982, when attainment can be demonstrated.

I. State of North Carolina

EPA approved North Carolina's request for a carbon monoxide attainment date extension until 1987 on April 17, 1980 945 FR 26038).

The non-attainment area is Mecklenburg County, which includes Charlotte.

The SIP was submitted on June 17, 1982 and includes:

- (a) A letter of submittal.
- (b) 1982 revision of the State implementation plan for carbon monoxide (Charlotte).

II. State of Georgia

EPA approved Georgia's request for a carbon monoxide attainment date extension until 1987 on January 24, 1980 (45 FR 5698).

The non-attainment area includes eleven counties in and around Atlanta.

The SIP was submitted on July 30, 1982 and includes:

- (a) A letter of submittal.
- (b) 1982 revision of the State implementation plan for carbon monoxide (Atlanta).

III. Commonwealth of Kentucky

EPA approved Kentucky's request for carbon monoxide and ozone extension until 1987 on August 7, 1981 (46 FR 40186), and January 25, 1980, (45 FR 6092), respectively.

The CO nonattainment area includes Jefferson County, and the ozone non-attainment area includes Jefferson, Boone, Kenton and Campbell Counties. The current SIP submittal includes:

- (a) A letter of submittal for Boone, Kenton and Campbell Counties portion of the SIP revision—September 27, 1982.
- (b) A revision to the State Implementation Plan for ozone in Boone, Kenton and Campbell Counties.
- (c) A letter of submittal for Jefferson County—June 30, 1982.
- (d) A revision to the State Implementation Plan for ozone in Jefferson County (draft).

IV. The State of Tennessee

EPA approved Tennessee's request for an extension of the attainment date until 1987 for carbon monoxide in Memphis on February 6, 1980, (45 FR 8004) and for carbon monoxide and ozone in Nashville on August 13, 1980 (45 FR 53809).

The carbon monoxide nonattainment areas include Shelby County (Memphis) and Davidson County (Nashville). The ozone nonattainment area includes Davidson County.

The SIP was submitted on June 30, 1982 and includes:

- (a) Letter of submittal.
- (b) 1982 Revision of the State Implementation Plan for ozone (Nashville) and for carbon monoxide (Nashville and Memphis).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: October 29, 1982.

Charles R. Jeter,
Regional Administrator.

[FR Doc. 82-31307 Filed 11-15-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 123

[W-3-FRL 2245-2]

West Virginia's Request To Use New NPDES Application Form for Surface Mines

AGENCY: Environmental Protection Agency.

ACTION: Proposed rules; notice of program revision.

SUMMARY: The State of West Virginia has submitted a request to the Environmental Protection Agency for approval to revise its National Pollutant Discharge Elimination System (NPDES) permit program to use a new application form for surface mine discharges. This notice provides for a comment period on West Virginia's request. The new surface mine form will replace the existing application form approved by EPA on May 10, 1982 for all mining discharges. The existing form will continue to be used for discharges from deep mines and preparation plants. Under EPA regulations, the Administrator shall approve or disapprove this request after taking into consideration all comments received.

DATES: Comments must be submitted on or before December 16, 1982 Interested persons may also request a public

hearing on the proposed new application form. If there is a significant public interest expressed in the comments received to have a public hearing, EPA will schedule such a hearing. In the event EPA determines to hold a public hearing, prior notice of the date, time and location of such hearing will be given. All requests for a public hearing on the proposed new application form must be submitted on or before December 15, 1982.

ADDRESSES: Copies of the proposed new surface mine application form are available from:

United States Environmental Protection Agency, Region III (3WM53), 6th and Walnut Streets, Philadelphia, Pennsylvania 19106; West Virginia Department of Natural Resources, Division of Water Resources, 1201 Greenbrier Street, Charleston, West Virginia 25311.

All comments regarding the surface mine application form submitted on or before December 15, 1982 and any comments received during a public hearing, if one is held, will be considered. All comments and hearing requests should be directed to: Charles W. Sapp, Chief, Water Permits Branch (3WM50) U.S.-EPA, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

FOR FURTHER INFORMATION CONTACT: Daniel D. Sweeney (3WM53), U.S. EPA, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106 215/597-8821.

SUPPLEMENTARY INFORMATION: On May 10, 1982 (47 FR 22363, May 24, 1982), the Administrator of EPA approved West Virginia to administer its own NPDES permit program for discharges within the jurisdiction of West Virginia. The approval was made pursuant to section 402(b) of the Federal Water Pollution Control Act Amendments of 1972. As part of that program, the Administrator approved application forms to be used in developing State NPDES permits. This included an application form to be used for mining discharges. West Virginia has requested that a new form be used to permit surface mine discharges. The existing mining form will continue to be used for discharges from deep mines and preparation plants.

The Administrator's decision to approve or disapprove the surface mine form will be based on the comments received, including those submitted at any public hearing, and a determination of whether the revision meets the applicable requirements of 40 CFR Part 123. According to 40 CFR 123.6, the

revision does not become effective until approval by the Administrator.

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 123

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

Peter N. Bibko,

Regional Administrator, EPA Region III.

[FR Doc. 82-31396 Filed 11-15-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 125 and 403

[W-7-FRL 2245-2]

Nebraska Pretreatment Program Proposal

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposal to incorporate a pretreatment program into the Nebraska national pollutant discharge elimination system (NPDES) permit program.

SUMMARY: The State of Nebraska has submitted a proposal to the Environmental Protection Agency for approval to expand its National Pollutant Discharge Elimination System (NPDES) program to include a pretreatment program. According to the State's proposal, the pretreatment program would be administered by the State of Nebraska Department of Environmental Control. This notice provides for a comment period on Nebraska's request. Under EPA regulations the Administrator shall approve or disapprove this request after taking into consideration all comments received.

DATES: Comments must be received on or before December 16, 1982.

Interested people may also request a public hearing on the State's request. If there is significant public interest expressed in comments, EPA will schedule such a hearing. In the event EPA determines to hold a public hearing, prior notice of date, time and location of such a hearing will be given. All requests for a public hearing must be submitted on or before December 16, 1982.

ADDRESSES: Copies of the Nebraska proposal are available for public inspection during normal business hours at the Water Management Division, U.S.

Environmental Protection Agency, Region VII office, 324 East 11th Street, Kansas City, Missouri 64106, and the Permits and Licenses Section, Water and Waste Management Division, Nebraska Department of Environmental Control, 301 Centennial Mall South, Lincoln, Nebraska 68509. Comments on the Nebraska proposal should be submitted to these addressees.

FOR FURTHER INFORMATION CONTACT:

Lee Duvall, Permits/Compliance Section, Water Compliance Branch, U.S. Environmental Protection Agency, Region VII office, 324 East 11th Street, Kansas City, Missouri 64106, (816) 374-2281.

SUPPLEMENTARY INFORMATION:

On January 23, 1981, the United States Environmental Protection Agency (U.S. EPA) promulgated the General Pretreatment Regulations (40 CFR Parts 125 and 403). These regulations, mandated by the Clean Water Act of 1977 (Pub. L. 95-217), govern the control of industrial wastes introduced into Publicly Owned Treatment Works (POTW), commonly referred to as municipal sewage treatment plants. The objectives of the regulations are to: (1) prevent introduction of pollutants into POTWs which will interfere with plant operations and/or disposal or use of municipal sludges; (2) prevent introduction of pollutants into POTWs which will pass through treatment works in unacceptable amounts to receiving waters or into municipal sludges; and (3) improve the feasibility of recycling and reclaiming municipal and industrial wastewaters and sludges.

One of the keystones of the industrial waste control programs, as set forth in the General Pretreatment Regulations, is the establishment of Pretreatment Programs as a supplement to the existing State National Pollutant Discharge Elimination System (NPDES) permit program. The State of Nebraska received NPDES permit authority on June 12, 1974. The General Pretreatment Regulations provide that local pretreatment programs may be utilized as the primary vehicle for developing and implementing pretreatment programs and applying and enforcing federal pretreatment standards for industrial users of POTWs. However, the Regulations also provide that a State may develop and implement a state level pretreatment program in lieu of the local POTW programs. Under this provision the State would apply and enforce pretreatment standards directly against industries that discharge to POTWs. The proposal by the State of Nebraska is for a state level program. In order to be approved, a request for State

Pretreatment Program approval must demonstrate that the State has legal authority, procedures, available funding, and qualified personnel to implement a State Pretreatment Program specified in § 403.10 of the Regulations.

The Nebraska proposal consists of a description of how the State proposes to operate the program a statement from the Nebraska Attorney General that the State has adequate legal authority to conduct the program, and a Memorandum of Agreement between the State and EPA Regional Office. EPA is providing an opportunity for public comment on the State's request. Public comments should be sent to EPA at the address indicated above prior to the close of the 30 day comment period. All comments will be considered in the decision on whether or not to approve the program. If there is sufficient public interest, a public hearing will be held, and the time and place of the hearing will be public noticed. All persons submitting comments will be notified of the approval or disapproval of the program by the Administrator.

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

List of Subjects

40 CFR Part 125

Water pollution control, waste treatment and disposal.

40 CFR Part 403

Confidential business information, Reporting and record keeping requirements, Waste treatment and disposal, Water pollution control.

Dated: November 5, 1982.

David A. Wagoner,

Acting Regional Administrator, Region VII.

[FR Doc. 82-31343 Filed 11-15-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[BC Docket No. 81-742]

Formulation of Policies Relating to the Broadcast Renewal Applicant Stemming from the Comparative Hearing Process; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry; extension of comment/reply comment period.

SUMMARY: This action, by the General Counsel pursuant to delegated authority, grants request by The National Black Media Coalition to extend the time for filing of comments and reply comments in response to the Commission's *Further Notice of Inquiry in BC Docket No. 81-742, Formulation of Policies Relating to the Broadcast Renewal Applicant Stemming From the Comparative Hearing Process.*

DATES: The deadline for filing comments has been extended from November 15, 1982 to November 22, 1982, and the deadline for filing reply comments has been extended from December 6, 1982 to December 13, 1982.

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

FOR FURTHER INFORMATION CONTACT: Sheldon Guttman, Office of General Counsel, (202) 632-6990.

SUPPLEMENTARY INFORMATION:

In the matter of formulation of policies relating to the broadcast renewal applicant stemming from the comparative hearing process, 10-15-82; 47 FR 46117.

Order

Adopted: November 2, 1982.

Released: November 8, 1982.

1. The Commission has before it a motion for extension of time in which to file comments and reply comments in response to the Commission's *Further Notice of Inquiry in BC Docket No. 81-742, Formulation of Policies Relating to the Broadcast Renewal Applicant Stemming From the Comparative Hearing Process*, FCC 82-433, released October 1, 1982. The extension request was filed by the National Black Media Coalition (NBMC). NBMC asks the Commission to extend the time for filing comments from November 15, 1982 to November 22, 1982, and reply comments from December 6, 1982 to December 13, 1982. NBMC asserts that the additional time is needed because the Commission has established filing dates in the lottery proceeding¹ immediately before the filing dates in this proceeding and NBMC wants to participate in both proceedings.

2. Good cause having been shown, the request for extension of time will be granted pursuant to authority delegated to the General Counsel. See 47 CFR 0.251(b) (1980).

3. Accordingly, it is hereby ordered that the Motion for Extension of Time

filed by The National Black Media Coalition is hereby granted; and that the time for filing comments and reply comments is extended to and including November 22, 1982 and December 13, 1982, respectively.

Majorie S. Reed,

Acting General Counsel.

[FR Doc. 82-31363 Filed 11-15-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Ch. I

[CC Docket No. 81-893]

AT&T Files Supplementary Comments in Proceeding To Detariff Embedded Customer Premises Equipment; Comments Invited

November 2, 1982.

SUMMARY: On October 28, 1982, the American Telephone and Telegraph Company (AT&T) filed Supplementary Comments pertaining to the prompt detariffing and transfer of all embedded customer premises equipment.¹ Interested persons are invited to file comments and reply comments on AT&T's Supplementary Comments.

DATES: Comments filed by November 23, 1982. Reply comments by December 3, 1982.

ADDRESSES: Copies of the filing may be obtained from the Downtown Copy Center, 1114 21st Street, N.W., Washington, D.C. 20037, (202-452-1422). In addition, the document is available for public inspection in Room 202, 1919 M Street, N.W., Washington, D.C. 20554, (202-254-7674).

FOR FURTHER INFORMATION CONTACT:

Linda M. Goodman, (202) 632-9342.

Gary M. Epstein,

Chief, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION:

In the matter of procedures for implementing the detariffing of customer premises equipment and enhanced services (second computer inquiry), order requesting comments.

Adopted: November 5, 1982.

1. On October 28, 1982, the American Telephone and Telegraph Company (AT&T) filed Supplementary Comments pertaining to the prompt detariffing and transfer of all embedded customer premises equipment.

2. In light of new development since the conclusion of the normal pleading cycle in this proceeding, AT&T's Supplementary Comments will be accepted. Pursuant to § 1.415(d) of our

¹ Notice of Inquiry concerning this was published in the *Federal Register* on 4-21-82 on page 47 FR 17083.

rules, 47 CFR 1.415(d), interested parties are invited to file comments on AT&T's Supplementary Comments by November 23, 1982. Replies may be filed no later than December 3, 1982.

3. Accordingly, it is ordered, pursuant to § 0.291 of the Commission's Rules, 47 CFR 0.291, That AT&T's request to accept Supplementary Comments is granted.

4. It is further ordered, that interested parties may submit comments on AT&T's Supplementary Comments by November 23, 1982. Replies may be filed no later than December 3, 1982.

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82-30693 Filed 11-15-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 22

[CC Docket No. 80-57]

Revision and Update of Part 22 of the Commission's Rules; Order Extending Time for Filing Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: Acting on two motions, the Commission extends the time to file comments and reply comments in this rulemaking proceeding to revise and update Part 22 of the Rules (Public Mobile Radio Services).

DATES: Comments are due by December 13, 1982, and reply comments are due by January 28, 1983.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Michael A. Menius, Mobile Services Division, Common Carrier Bureau (202) 632-6450.

SUPPLEMENTARY INFORMATION:

In the matter of revision and update of Part 22 of the rules (Public Mobile Radio Services).

Order Extending Time To File Comments

Adopted November 3, 1982.

Released November 4, 1982.

1. In a Notice of Proposed Rule Making (Notice) released September 8, 1982, in the captioned proceeding, the Commission proposed extensive revisions to Part 22 of the Rules (Public Mobile Radio Services).¹ Written

¹ In the Matter of Amendment of the Commission's Rules to allow the Selection from Among Certain Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings, FCC 82-420, released October 7, 1982.

¹ FCC 82-349, 47 FR 43842 (4 Oct. 1982).

comments were invited to be filed on or before November 8, 1982.

2. A Motion for Extension of Time has been submitted on behalf of the Mobile Services Division Committee of the Federal Communications Bar Association (FCBA). A similar Motion for Enlargement of Time was submitted by the Telocator Network of America (Telocator). Both parties seek extensions of approximately one month to file comments and similar extensions to file reply comments. The parties point out that the due date for comments coincides with the next filing date for cellular applications, and thus many members of the public who wish to file comments are presently occupied with the extensive preparation of cellular applications.

3. The revisions proposed in the Notice are extensive. The appendix itself is almost 200 pages in length. Many of the proposals involve basic policy changes. We consider public comment on these proposals to be an essential element of the successful updating of these rules. Accordingly, good cause having been shown for an extension of time to submit comments, the filing date will be modified as set forth below.

4. It is ordered, that the time for filing comments in CC Docket 80-57, is extended to December 13, 1982.

5. It is further ordered, that the time for filing reply comments is extended to January 28, 1983.

6. It is further ordered, that the Secretary shall cause a copy of this order to be published in the Federal Register.

Gary M. Epstein,
Chief, Common Carrier Bureau.

[FR Doc. 82-31303 Filed 11-15-82; 9:45 am]
BILLING CODE 6712-01-M

47 CFR Part 22

[Docket No. 20907; FCC 82-465]

One-Way Signaling on a Primary Basis

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Commission, by this action, declined to amend its rules to allow certain frequencies that were allocated for common carrier two-way mobile telephone service to be used for one-way paging on a primary basis. The existing values allow paging on two-way frequencies only on a secondary basis. These rule changes were proposed as an interim measure to alleviate a severe shortage of available spectrum for paging. Instead, in several recent

actions, the Commission made available additional paging spectrum to accommodate this shortage of paging frequencies.

FOR FURTHER INFORMATION CONTACT: Steven A. Weiss, Common Carrier Bureau, (202) 632-6450.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 22 of the Commission's Rules to extend parts of section 22.501 (a), (b), and (c) to permit one-way signaling on a primary basis (September 16, 1976; 41 FR 39766) proceeding terminated.

Adopted October 22, 1982.

Released: October 26, 1982.

1. In this proceeding, the Commission proposed to amend § 21.501 (a), (b) and (c) of the Commission's Rules (now § 22.501 (a), (b), and (c)) to allow frequencies allocated for two-way mobile telephone services to be used for one-way paging services on a primary basis when no one-way paging frequencies are available or when available one-way frequencies cannot be used because of interference from domestic or foreign stations.¹ The existing rules allow paging on two-way frequencies only on a secondary basis.² The Notice proposed to relax the primary and secondary requirements of the rules in areas where additional frequencies are needed to meet a substantial unsatisfied demand for common carrier paging services.

2. The comments from the public were mixed. Seven commenters supported the proposal as a limited, short-term solution to meet the need for more paging frequencies.³ They all agreed, however, that additional paging frequencies would be a preferable alternative to the proposed rule changes. Six parties filed formal comments in opposition to our proposal.⁴ These

¹ Paging on Two-Way Frequencies, Notice of Proposed Rulemaking, 61 FCC 2d 136 (1976).

² However, in Revision and Update of Part 22 of Rules (Public Mobile Radio Services), CC Docket No. 80-57, Notice of Proposed Rulemaking, FCC 82-349, released September 8, 1982, at pages A-149 to A-152, the Commission proposed to eliminate the "primary" and "secondary" services distinction entirely because of the problem posed by the interpretation of these terms. Instead, we proposed that the two-way frequencies may be used to provide one-way paging service provided that two-way service is also offered by the carrier.

³ American Telephone and Telegraph Company (AT&T); Airsignal International, Inc.; Industrial Communications Systems, Inc.; Motorola, Inc.; Omni Communications, Inc.; Seattle Radiotelephone Service; and Empire Paging Corporation.

⁴ Radio Broadcasting Co.; Radio Dispatch Co.; Westchester Mobilfone System, Inc.; Telocator Network of America (formerly the National Association of Radiotelephone Systems); Mobilfone, Inc.; Thomas R. Morgan.

parties argued that the proposed rule had many latent ambiguities that would give rise to undue administrative difficulties. They further argued that the proposal would severely burden two-way service by encouraging existing carriers to convert their two-way channels exclusively to paging stations.⁵ Finally, they expressed concern over potential interference problems.

3. After carefully reviewing the record in this proceeding, we have concluded that the public interest would best be served by not adopting the proposed rule changes. These changes were proposed as an interim measure to alleviate a severe shortage of available spectrum for paging services. However, we have recently taken the long-term approach of making additional paging spectrum available in the 35, 43, and 900 MHz frequency bands.⁶ We conclude, therefore, that our proposed rule changes are no longer in the public interest.⁷

4. Accordingly, it is ordered, that this proceeding is terminated.

Federal Communications Commission,
William J. Tricarico,
Secretary.

[FR Doc. 82-31370 Filed 11-15-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-756; RM-4198]

FM Broadcast Station in Maurice, Louisiana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 292A to Maurice, Louisiana, in response to a petition filed by Maurice Broadcasting. The proposal

⁵ In addition, over a hundred individuals that own their own mobile unit filed informal comments in opposition to our proposal on this ground, arguing that their equipment would be rendered useless because of the "wholesale" conversion of these two-way frequencies to paging services.

⁶ See Report and Order, CC Docket No. 80-189, 49 RR 2d 1541, 46 FR 38509 (July 28, 1981), recon. granted in part, FCC 82-342, 47 Fed. Reg. 34561 (August 10, 1982); Second Report and Order, Docket No. 19327, FCC 82-343, 47 Fed. Reg. 35566 (August 10, 1982); First Report and Order, General Docket No. 80-183, FCC 82-202, 47 FR 24557 (June 7, 1982), recon. pending.

⁷ Further, it is possible that two-way frequencies that are presently unused will be usable in the future, as a result of the Commission's proposed waiver policy with respect to the separate frequency allocation policy. See CC Docket 80-57, *supra* note 2, at pages A-160 to A-162.

⁸ Commissioner Rivera not participating.

could provide a first FM service to that community.

DATES: Comments must be filed on or before December 27, 1982, and reply comments on or before January 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Maurice, Louisiana); BC Docket No. 82-756, RM-4198.

Notice of Proposed Rule Making

Adopted: November 1, 1982.

Released: November 9, 1982.

By the Chief, Policy and Rules Division:

1. A petition for rule making was filed August 20, 1982, by Maurice Broadcasting ("petitioner"), seeking the assignment of FM Channel 292A to Maurice, Louisiana, as its first FM assignment. A site restriction of approximately 4.5 miles southwest of the city is required due to Station KQXL in New Roads, Louisiana. Petitioner has stated that it would apply for the channel if it is assigned.

2. In view of the fact that the proposed assignment could provide a first FM broadcast service to Maurice, Louisiana, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Maurice, Louisiana.....		292A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before the channel will be assigned.

4. Interested parties may file comments on or before December 27, 1982, and reply comments on or before January 11, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND THE FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if

authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available from examination by interested parties during regular business hours in the Commission's Public Reference Room at its

headquarters, 1919 M Street NW.,
Washington, D.C.

[FR Doc. 82-31300 Filed 11-15-82; 8:45 am]

BILLING CODE 6712-0-M.

47 CFR Part 73

[BC Docket No. 82-754; RM-4200]

FM Broadcast Station in Hatch, New Mexico; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 258 to Hatch, New Mexico, in response to a petition filed by Albert T. and Christina Sanchez. The proposal could provide a first FM service to that community.

DATES: Comments must be filed on or before December 27, 1982, and reply comments must be filed on or before January 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Hatch, New Mexico); BC Docket No. 82-754, RM-4200.

Notice of Proposed Rule Making

Adopted: November 1, 1982.

Released: November 9, 1982.

By the Chief, Policy and Rules Division:

1. A petition of rule making was filed September 15, 1982, by Albert T. and Christina Sanchez ("petitioners") proposing the assignment of Class C Channel 258 to Hatch, New Mexico, as its first FM assignment. Petitioners expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Since Hatch is located within 320 kilometers (199 miles) of the U.S.-Mexican border, the proposed assignment requires the concurrence of the Mexican government.

3. In view of the fact that the proposed assignment could provide a first FM service to Hatch, the Commission proposes to amend the FM Table of assignments (§ 73.202(b) of the Rules)

with respect to Hatch, New Mexico, as follows:

City	Channel No.	
	Present	Proposed
Hatch, New Mexico		258

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. **NOTE:** A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before December 27, 1982, and reply comments on or before January 11, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions

by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-31302 Filed 11-15-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-755; RM-4197]

FM Broadcast Station in Whitneyville, Pennsylvania; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 296A to Whitneyville, Pennsylvania, in response to a petition filed by Michael P. McGough. The assignment could provide a first FM service to that community.

DATES: Comments must be filed on or before December 27, 1982, and reply comments on or before January 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Whitneyville, Pennsylvania); BC Docket No. 82-755, RM-4197.

Notice of Proposed Rule Making

Adopted: November 1, 1982.

Released: November 9, 1982.

By the Chief, Policy and Rules Division:

1. A petition for rule making was filed September 13, 1982, by Michael P. McGough ("petitioner"), seeking the assignment of FM Channel 296A to Whitneyville Pennsylvania, as its first FM assignment. Petitioner expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Since Whitneyville, Pennsylvania, is within 320 kilometers (200 miles) of the U.S.-Canadian border, the proposed assignment requires coordination with the Canadian Government.

3. In view of the fact that the proposed assignment could provide a first FM broadcast service to Whitneyville, Pennsylvania, the Commission believes it appropriate to propose amending the Table of Assignments, § 73.202(b) of the Commission Rules, with respect to the following community:

City	Channel No.	
	Present	Add
Whitneyville, Pa.....		296A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before December 27, 1982, and reply comments on or before January 11, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules* 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to

Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.204(b) and 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be

considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-31301 Filed 11-15-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-5; RM-3925]

FM Broadcast Stations in Waipahu and Honolulu, Hawaii; Denial of Proposed Rule

AGENCY: Federal Communications Commission.

ACTION: Denial of proposed rule.

SUMMARY: This action denies a petition for rule making filed by Heftel Broadcasting Corporation, licensee of Station KULA(FM), Waipahu, Oahu, Hawaii, requesting reassignment of Channel 222 to Honolulu, Oahu, Hawaii

and related modification of its license to reflect that reassignment. Petitioner failed to demonstrate that Waipahu is no longer entitled to separate community status from Honolulu.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Waipahu and Honolulu, Hawaii); [BC Docket No. 82-5, RM-3925].

Report and Order—Proceeding Terminated

Adopted: November 1, 1982.

Released: November 9, 1982.

By the Chief, Policy and Rules Division:

1. Before the Commission is a notice of Proposed Rule Making, 47 Fed. Reg. 3389, published January 25, 1982, in response to a petition filed by Heftel Broadcasting Corporation ("petitioner"), licensee of Station KULA(FM) (Channel 222) in Waipahu, Hawaii. Petitioner seeks the reallocation of Channel 222 from Waipahu to Honolulu, and modification of its license to specify Honolulu in lieu of Waipahu. Petitioner filed supporting comments, and a corrigendum thereto, in which it reaffirmed its interest in the requested reallocation. No opposition comments in response to the proposal were received.

2. The notice set forth petitioner's position that although Waipahu was perhaps "sociologically separate" from Honolulu when Channel 222 was allocated in 1963, certain "dramatic changes" since then have led to its existence as an "integral part of Honolulu," and therefore it is no longer a community for assignment purposes. In particular, it claimed that Waipahu has changed from a sugar plantation town to a "bedroom" annex of downtown Honolulu. Further, it stated that although Waipahu has its own cultural and social groupings, it does not have an adequate degree of other elements generally considered as comprising a community. Further, it asserted that for political and legal purposes Waipahu is part of the city and county of Honolulu, which, in turn, provides all governmental services to it.

3. The notice also set forth criteria the Commission has traditionally utilized to determine community status for assignment purposes.¹ Here, we stated

¹ See, *Teche Broadcasting Corp.*, 52 F.C.C. 2d 970, 973 (1975); *North Naples and Immokalee, Florida*, 41

that even though Waipahu is not a politically or legally separate entity, those factors are not dispositive of whether it is a "community" within the meaning of the Commission's Rules. The city and county of Honolulu, which was established by the Hawaii legislature in 1907 is, in effect, one municipal government exercising jurisdiction over the entire Island of Oahu. Further, we noted that while it is possible that Waipahu can, within this government structure, be viewed as having become a "neighborhood" of Honolulu rather than a separate community, it is conceivable that it might also be considered as homogeneous in character as an independent, unincorporated community within a given county, with government-related services provided by the county.

4. Further, we noted that in its 1979 application to obtain an assignment of the license for Station KULA (FM), petitioner's ascertainment portion thereof described Waipahu as "an adjacent suburb to Honolulu." Such survey, which included interviews with various community leader, suggested that Waipahu was, at that time, a community with specific needs. Therefore, the notice requested comment from the petitioner and other interested parties on the importance which might properly be attached to such varied Waipahu area organizations and its bearing on the apparently specialized needs as identified in the ascertainment survey. Additionally, we requested information as to whether the State of Hawaii planning boundaries and those of various educational institutions in Waipahu are so intertwined with the area in which the organizations listed in its ascertainment survey exist as to have importance for assignment purposes.

5. In response to the notice, petitioner reiterates that one of the contributing factors to Waipahu's demise as a separate community from Honolulu is its lack of defined boundaries, asserting that Waipahu is totally encompassed by the city and county of Honolulu which, in turn, are coterminous with the Island of Oahu. Although it acknowledges that the absence of defined boundaries alone is not solely dispositive of determining its status, it states that, when considered in connection with the absence of separate identifiable elements in Waipahu, the status of

R.R. 2d 1549 (1977); *Yorktown, Va.*, 38 FR 6695 (1973); *Holiday, Fla.*, 40 FR 29393 (1975); *Holiday and Dunedin, Fla.*, 37 R.R. 2d 329 (1976); and *Declaratory Ruling Concerning the Meaning and Effect of Section 73.642(a)(3)*, 55 F.C.C. 2d 187, 189 (1975).

Waipahu as a separate community cannot be demonstrated.²

6. Further, in response to our request, petitioner asserts that the information contained in the ascertainment portion of its application for the license of Station KULA(FM) cannot be relied upon for purposes of defining Waipahu's existence as a community. It asserts that a majority of the statistical information provided therein was directed to the entirety of the Island of Oahu rather than Waipahu exclusively. Additionally, petitioner claims that many of the organizations listed therein are now state-wide with memberships derived from the entire Island of Oahu. And, in many instances, it claims that the title "Waipahu" is used only to denote the location of those organizations whose primary concerns are directed to Honolulu. Moreover, petitioner asserts that other organizations listed for Waipahu are simply typical of similar organizations located in other areas of Honolulu and therefore Waipahu's needs and interests are not novel or dissimilar from those of residents located elsewhere on the Island.

7. Petitioner states that with regard to the relationship between Waipahu area schools and those located throughout Oahu, there is one school system serving the State of Hawaii which is governed by one superintendent and school board. As a result, petitioner claims that Waipahu area schools cannot be considered distinct from the balance of those on the Island of Oahu.

8. In 1966, the State Department of Planning and Economic Development began defining statistical boundaries for most of the principal cities, towns and villages in Hawaii. As a result, such boundaries have been used by the State and by the 1980 U.S. Census to report statistical and other information on these communities. Thus, utilizing such statistical boundaries, the 1982 Rand McNally Commercial Atlas and Marketing Guide lists Waipahu as the 5th largest principal city in Hawaii according to its population as reported from the 1980 Preliminary U.S. Census. Additionally, it notes that Honolulu, the largest city in Hawaii, and the only incorporated one in the entire State, is located in Honolulu County, as is Waipahu. Although four counties are recognized in Hawaii, three of which (Hawaii, Kauai and Maui) have county governments similar to those in other states, Honolulu County is legally recognized as the city and county of Honolulu, and thus has one municipal

government exercising jurisdiction over the entire Island of Oahu. Consequently, given the uniqueness of the separate administrative government in Honolulu, the fact that Waipahu relies on it for such services does not make it unique from other such communities in Honolulu County that have had channel allocations assigned based on a clear showing of their distinctly separate needs and interests.

9. Neither are we persuaded, based on the information supplied by petitioner, that a sufficient showing has been made to demonstrate that Waipahu is no longer a recognizable community since the initial allocation of Channel 222 was made in 1963. Petitioner has not shown convincingly that the needs and interests of Waipahu and Honolulu are inseparable, and absent such showing, we have no reason to assume that a Waipahu station would have no source for local programming. Although Waipahu may lack certain community components found in Honolulu, this fact simply reaffirms the difference between the communities rather than the demise of Waipahu as an identifiable community. See, *Catonsville and Baltimore, Maryland*, 44 R.R. 2d 284 (1978).

10. Moreover, we do not find that the decisions relied upon by petitioner in *North Naples, Florida or Radio Station KQXI, supra*, are supportive of its position. In *North Naples*, the lack of certain local services was not the primary justification the Commission employed in declining to recognize it as a community. There, the petitioners failed to establish officially recognizable boundaries which were necessary to substantiate that the requirements of then sections 315(a) and 210(b) of the Commission's Rules with respect to principal city coverage could be met. Secondly, in affidavits submitted by various civic organization leaders, as well as the superintendent of the county school system, it was asserted that they did not recognize North Naples as a "single cohesive community." Thus, unlike the instant situation, the Commission found that petitioner had failed to show a sense of unity and involvement in community concerns necessary to qualify North Naples as a separately distinct community from Naples.

11. In *Radio Station KQXI, supra*, the Commission did not dispute that Arvada, Colorado, and suburb of Denver, was a place of station location within the meaning of *Seven Locks Broadcasting Co.*, 22 R.R. 2d 967 (1962). Rather, its finding that Arvada was not a separate community from Denver was

based on the applicability of *Seven Locks* as the standard by which to ascertain whether it qualified as such for purposes of the 10% Rule (§ 73.28(d)(3)). There, the applicant who was the licensee of a daytime only AM station in Arvada sought to take advantage of the first local nighttime service exception to the 10% Rule by specifying a suburban community. Aside from the unacceptable interference that its proposal would have caused, it failed to show that its proposal would actually function as an Arvada station, or that Arvada had needs and interests apart from Denver. Thus we fail to find that these cases provide a basis for determining that Waipahu should no longer be viewed as a community.

12. Additionally, petitioner's proposal is further weakened by a pending petition filed by KDEO Associates, licensee of AM Station KDEO in Waipahu, notice of proposed rulemaking, 47 FR 46726, published October 20, 1982 (Docket 82-708), requesting the allocation of another FM channel to that community. In its pleading, petitioner states that Waipahu has its own separate business and social community from Honolulu, and that it is a "city" with a need for separate identity to serve the special concerns of the area.

13. Although a final ruling has not been rendered, the strength of petitioner's proposal is likewise diluted by our recent action in two other rulemaking proceedings proposing the assignment of Class C channels to Pearl City (BC Docket No. 82-211; RM-4052) and Kaneohe, Hawaii (BC Docket No. 82-236; RM-4050). In Pearl City, located 10 miles northwest of Honolulu, the proponent asserts that an assignment is desired based not only on that community's importance as a center for the defense of the United States, but also is attributable to its current growth as a community which has experienced an increase in military, commercial and private construction. In Kaneohe, located approximately 8 miles north of Honolulu, the proponent likewise set forth a showing of need to establish an FM station in that community. Even though both of these communities are located closer to Honolulu than is Waipahu, they each purport to have separate identities based on their own respective needs and interests.

14. Accordingly, in view of the above considerations, it is ordered that the petition for rulemaking filed by Hefel Broadcasting Corporation is denied.

15. It is further ordered, That this proceeding is terminated.

² Citing *Radio Station KQXI*, 13 R.R. 2d 363 (1968), and *North Naples and Immokalee, Fla.*, 41 R.R. 2d 1549 (1977).

16. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-31366 Filed 11-15-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

Snapper-Grouper Complex; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of public hearings.

SUMMARY: The South Atlantic Fishery Management Council will hold public hearings to allow for input on certain portions of the Draft Fishery Management Plan for the Snapper-Grouper Complex (FMP).

DATES: Written comments on the indicated portions of the FMP from the public may be submitted no later than December 30, 1982.

Individuals or organizations wishing to comment on the indicated portions of the FMP may do so at public hearings to be held as follows:

December 7: Key Largo, Florida

December 8: Jacksonville Beach, Florida

December 9: Wilmington, North Carolina

All of the hearings will be from 7:00-10:00 p.m.

Hearings will be tape recorded and tapes will be filed as an official transcript of the proceedings. A written summary will be prepared.

ADDRESSES: Send comments to: David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407.

Public hearing locations:

December 7, 1982—Lion's Club, 100 Mile Marker, U.S. Hwy. 1, Key Largo, Florida.

December 8, 1982—Sheraton Beach Resort, Eleventh Ave. South, Jacksonville Beach, Florida.

December 9, 1982—University of North Carolina, Rm. 150, Marine Science Bldg., 601 South College Road, Wilmington, North Carolina.

FOR FURTHER INFORMATION CONTACT: David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407, (803) 571-4366. Copies of the proposed changes to the FMP are available upon request to the South Atlantic Council.

SUPPLEMENTARY INFORMATION: The hearings will deal with these proposed changes to the FMP:

1. Impose a 12-inch total length minimum size for yellowtail snapper.
2. Prohibit the use of fish traps shoreward of the 100 foot contour in the fishery conservation zone south of Fowey Light.
3. Remove the prohibition on powerheads for taking fishes.
4. Prohibit the taking of jewfish by spearguns or powerheads.

Dated: November 10, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-31361 Filed 11-15-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Intent to Prepare an Environmental Impact Statement for a Generation and Transmission Project; Proposed by Seminole Electric Cooperative, Inc., of Tampa, Florida

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Rural Electrification Administration (REA), if lead agency, intends to prepare an Environmental Impact Statement (EIS) in connection with possible financing assistance for Seminole Electric Cooperative, Inc., P.O. Box 17100, Tampa, Florida 33682. The financing assistance would be for the construction of generation facilities, possibly to be located in Taylor or Liberty Counties, Florida, and related transmission facilities into the transmission grid.

ADDRESS: All inquiries and comments should be forwarded to Mr. Joe S. Zoller, Assistant Administrator—Electric, REA, USDA—South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Joe S. Zoller, at the above address.

SUPPLEMENTARY INFORMATION: Notice is hereby given that REA, if lead agency, intends to prepare an Environmental Impact Statement (EIS) to fulfill the requirements of the National Environmental Policy Act (NEPA) of 1969 in connection with possible financing assistance to the Seminole Electric Cooperative, Inc., (Seminole) P.O. Box 17100, Tampa, Florida 33682, for the construction of generation and transmission facilities.

Seminole is investigating possible plant sites in Taylor and Liberty Counties in Florida. The sites are being investigated for a possible coal-fired generating station. Associated with the generating station will be transmission facilities connecting the station into the existing transmission grid, fuel handling facilities, water intake and discharge, waste disposal and pollution control equipment.

Alternatives will be considered by REA and Seminole, as required by REA Bulletin 20-21:320-21. These will include, among others: a) No project, b) energy and load management, c) alternative fuels and methods of generation, d) alternate unit sizes, e) purchase power from other utilities, and f) alternative sites for generation and transmission. Need for the project will be evaluated by REA throughout the NEPA process.

A formal scoping meeting will be held as soon as practicable. All agencies, groups and individuals are requested to indicate their interest in attending this meeting, and are invited to participate in the planning and analysis of this proposed project. Some of the issues that will be discussed at the meeting include, but are not limited to, the project scope and significant environmental issues, requirements for environmental review, consultation and study by all possible licensing or approval agencies, and identification of environmentally sensitive areas, other project alternatives or potential sites, and any fatal flaws to the proposed project.

REA's financing assistance to Seminole will be subject to, and release of funds thereunder will be contingent upon, REA arriving at a satisfactory conclusion regarding compliance with EIS procedures required by the NEPA of 1969.

(This Federal assistance program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees)

Dated: November 5, 1982.

Harold V. Hunter,
Administrator.

[FR Doc. 82-31335 Filed 11-15-82; 8:45 am]

BILLING CODE 3410-15-M

Federal Register

Vol. 47, No. 221

Tuesday, November 16, 1982

CIVIL AERONAUTICS BOARD

Announcement of Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency clearance officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell (202) 673-5922

New

- Title of the Collection of Information: Part 254, "Domestic Baggage Liability"
- Agency Form Number: None
- How often the Collection of Information must be filed: On occasion
- Who is asked or required to report: Airlines in interstate and overseas air transportation
- Estimate of number of annual responses: 80
- Estimate of number of annual hours needed to complete the collection of information: 500

New

- Title of the Collection of Information: Part 253, "Notice of Terms of Contract of Carriage"
- Agency Form Number: None
- How often the Collection of Information must be filed: On occasion
- Who is asked or required to report: U.S. air carriers that provide scheduled passenger service
- Estimate of number of annual responses: 425
- Estimate of number of annual hours needed to complete the collection of information: 2,040

Extension

- Title of the Collection of Information: Part 221, "Construction, Publication, Filing and Posting of Tariffs of Air Carriers and Foreign Air Carriers"
- Agency Form Number: None
- How often the Collection of Information must be filed: On occasion
- Who is asked or required to report: U.S. and foreign air carriers
- Estimate of number of annual responses: 260,052

- Estimate of number of annual hours needed to complete the collection of information: 217,746

Robin A. Caldwell,

Chief, Information Management Division,
Office of Comptroller.

November 8, 1982.

[FR Doc. 82-31320 Filed 11-15-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41007]

Application of Air National Aircraft Sales and Service, Inc. for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting a fitness investigation of Air National Aircraft Sales and Service, Inc., 82-11-45, Docket 41007.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Air National Aircraft Sales and Service, Inc.

DATES: Persons wishing to file requests for additional evidence or petitions to intervene in the Air National Fitness Investigation shall file their requests and petitions in Docket 41007 by November 22, 1982 and serve such filings on all persons listed below.

ADDRESSES: Requests for additional evidence and petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 41007.

In addition, copies of such filings should be served on: Air National Aircraft Sales and Service, Inc; the mayors of San Francisco, Monterey and Sacramento, California; the airport managers of San Francisco International Airport; Monterey Peninsula Airport, and Sacramento Metropolitan Airport; the California Transportation Commission; the California Public Utilities Commission; the Secretary of Transportation; and the Attorney General.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Sherry L. Kinland, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428, (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-11-45, is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-11-45 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Bureau of Domestic Aviation:
November 9, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-31325 Filed 11-15-82; 8:45 am]

BILLING CODE 6320-01-M

Commuter Fitness Determination

The Board is proposing to find the following carriers fit, willing and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response Date
82-11-16.	Pioneer Airways, Inc.	Nov. 23, 1982
82-11-17.	Waring Aviation, Inc. d.b.a. Waring Air.	Nov. 23, 1982
82-11-50.	Sierra Pacific Airlines	Nov. 24, 1982

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data with the Special Authorities Division, Room 915, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

For further information contact: Ms. Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428, (202) 673-5088.

By the Civil Aeronautics Board: Nov. 10, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-31326 Filed 11-15-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40847]

Institution of the Mid Pacific Airlines Fitness Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting the *Mid Pacific Airlines Investigation*, 82-11-20, Docket 40847.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Mid Pacific Airlines, Inc.

DATES: Persons wishing to file petitions to intervene in the *Mid Pacific Airlines Fitness Investigation* shall file their

petitions in Docket 40847 by November 22, 1982 and serve such filings on all persons listed below.

ADDRESSES: Petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 40847, *Mid Pacific Airlines Fitness Investigation*.

In addition, copies of such filings should be served upon Mid Pacific Airlines, Inc.; the mayors and airport managers of each city to which the pleading refers; the Hawaii State Department of Transportation; the Governor of Hawaii; the Federal Aviation Administration; Aloha Airlines; and South Pacific Island Airways.

Service will also be required on any other person filing a petition.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-11-20 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-11-20 to that address.

By the Civil Aeronautics Board: November 4, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-31324 Filed 11-15-82; 8:45 am]

BILLING CODE 6320-01-M

[International Air Associates Inc., Fitness Investigation Docket 41075]

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on November 23, 1982, at 9:30 a.m. (local time), Room 1027, Main Universal Building, 1825 Connecticut Ave., N.W., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., November 8, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 82-31321 Filed 11-15-82; 8:45 am]

BILLING CODE 6320-01-M

[Independent Air Incorporated Fitness Investigation Docket 40524]**Prehearing Conference**

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on November 22, 1982, at 9:30 a.m. (local time), Room 1027, Main Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., November 9, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-31322 Filed 11-15-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40580]**Samoa, Inc., d.b.a. Samoa Airlines, Inc., Fitness Investigation; Postponement of Hearing**

Due to the unavailability of the applicant's witnesses, notice is hereby given that a hearing in the above-entitled matter scheduled to be held on November 12, 1982 (47 FR 49052, October 29, 1982), is hereby postponed until November 23, 1982, at 10:00 a.m. (local time), in Room 1012, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., November 9, 1982.

John M. Vittono,

Administrative Law Judge.

[FR Doc. 82-31323 Filed 11-15-82; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION**Delaware Advisory Committee; Agenda and Notice of Public Meeting**

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission will convene at 4:00p and will end at 6:00p, on December 2, 1982, at the Caleb Boggs Federal Office Building, Room 3207, 9th and King Streets, Wilmington, Delaware. The purpose of this meeting is to discuss status of migrant project, report on National Chairpersons Conference, status reports on civil rights in Delaware, progress reports on subcommittee activities and discuss program planning.

Persons desiring additional information or planning a presentation to the Committee, should contact the

Chairperson, Ms. Louise T. Conner, 1214 Faun Road, Graylyn Crest, Wilmington, Delaware 19803, (302) 738-8154; or the Mid-Atlantic Regional Office, 2120 L Street, NW., Room 510, Washington, D.C. 20037, (202) 254-6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 10, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-31275 Filed 11-15-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE**Bureau of the Census****Service Annual Survey; Notice of Consideration**

Notice is hereby given that the Bureau of the Census is planning to conduct in 1983 the Service Annual Survey. This survey replaces the Monthly Selected Services Survey, terminated in December 1981, and will be the first time annual receipts data will be collected for service establishments as part of the current business programs. This annual survey will be conducted under title 13, United States Code, sections 182, 224, and 225, and will collect data on the 1981 and 1982 operating receipts of selected service industries. The introduction of this annual survey re-establishes a continuing and timely source of service operating receipts. Such a survey, if conducted, shall begin not earlier than December 31, 1982.

Information and recommendations received by the Bureau of the Census indicate that the data will have significant application to the information needs of the public, the service industries, and governmental agencies, and that the data are not publicly available from nongovernmental or other governmental sources on a continuing basis.

Reports will be required only from a selected sample of service firms operating in the United States, with probability of selection based on receipts size. The sample will provide, with measurable reliability, statistics on the subject specified above.

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of this proposed survey will receive consideration if submitted in writing to

the Director, Bureau of the Census, on or before December 17, 1982.

Dated: November 10, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82-31357 Filed 11-15-82; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration**Initiation of Antidumping Investigation; Canned Mushrooms From the People's Republic of China**

AGENCY: International Trade Administration Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether canned mushrooms from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that imports of canned mushrooms from the PRC are materially injuring, or are threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before December 2, 1982, and we will make ours on or before March 28, 1983.

EFFECTIVE DATE: November 16, 1982.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-2613.

SUPPLEMENTARY INFORMATION:*Petition*

On October 18, 1982, we received a petition filed by counsel on behalf of the Four "H" Corporation. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports from the PRC of canned mushrooms are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act) and that these imports are materially injuring, or threatening to materially injure, a United States industry. The petition further alleges that the PRC is a state-

controlled economy country within the meaning of the Act. The petitioner states that sales of canned mushrooms in the PRC do not permit a determination of foreign market value and that the Department of Commerce must choose a non-state-controlled economy country to be used as a surrogate for the purpose of determining the foreign market value of this product.

The allegation of sales at less than fair value is supported by information on United States price which is derived from import statistics or information obtained from importers. Foreign market value information presented by the petitioner consists of both information concerning the price of mushrooms from a third country imported into the United States (as derived from either import statistics or a price list) and the constructed value of a United States producer.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on canned mushrooms and have found that it meets these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether canned mushrooms from the PRC are being, or are likely to be, sold in the United States at less than fair value. If the investigation proceeds normally, we will make our preliminary determination by March 28, 1983.

Scope of the Investigation

For purposes of this investigation, the term "canned mushrooms" covers mushrooms, prepared or preserved, other than frozen, currently provided for in item 144.20 of the *Tariff Schedules of the United States*.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms it will not disclose such information either publicly or under an administrative protective order without the written consent of the

Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by December 2, 1982 whether there is a reasonable indication the imports of canned mushrooms from the PRC are materially injuring, or are threatening to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, the investigation will proceed according to statutory procedures.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

November 8, 1982.

[FR Doc. 82-31278 Filed 11-15-82; 8:45 am]

BILLING CODE 3510-25-M

Nation Oceanic and Atmospheric Administration

National Marine Fisheries Service; Receipt of Applications for General Permit

Notice is hereby given that the following applications have been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone during 1983 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

1. Japan Deep-Sea Trawlers Association, No. 601 Daito Building, 3-6, Kandaogawacho, Chiyoda-ku, Tokyo, Japan, has applied for a Category 1: "Towed or Dragged Gear" general permit to take up to 120 sea lions and 10 of each of the following: harbor seals, fur seals and sea otters in the Bering Sea/Gulf of Alaska and up to 5 of each of the following: Harbor seals, pilot whales, harbor porpoise, Atlantic white-sided dolphin, and bottlenose dolphin in the North Atlantic.

2. Hokuten Trawlers Association, c/o National Federation of Medium Trawlers Toranomon Chuo Building, 1-16, Toranomon, 1-chome, Minatoku, Tokyo, Japan, has applied for a Category 1: "Towed or Dragged Gear" general permit to take up to 55 sea lions, and 5 of each of the following: harbor seals, fur seals, sea otters, and walrus in the Bering Sea and Aleutian Islands.

3. The North Pacific Longline-Gillnet Association, Zenkeiren Building, 2-7-2, Hirakawa-cho, Chiyoda-ku, Tokyo, Japan, has applied for a Category 5: "Other Gear" general permit to take marine mammals by harassment only.

The applications are available for review in the Office of the Assistant Administrator for Fisheries, National

Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Interested parties may submit written views on this application within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: November 10, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-31334 Filed 11-15-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

November 10, 1982.

Adjusting the Import Restraint Level for Certain Man-Made Fiber Apparel Products from India

AGENCY: Committee the Implementation of Textile Agreements.

ACTION: Increasing the consultation level for man-made fiber dresses in Category 636, produced or manufactured in India and exported during the agreement year which began on January 1, 1982, from 15,453 dozen to 30,905 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654))

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, the consultation level established for cotton apparel products in Category 636 is being increased to 30,905 dozen for the agreement year which began on January 1, 1982 and extends through December 31, 1982, at the request of the Government of India.

EFFECTIVE DATE: November 17, 1982.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the *Federal Register* (46 FR 61685) a

letter dated December 15, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including Category 636, produced or manufactured in India, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the letter published below, in accordance with the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month level previously established for Category 636 to 30,905 dozen.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

November 10, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 15, 1981 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in India.

Effective on November 17, 1982, paragraph 1 of the directive of December 15, 1981 is further amended to increase the level of restraint for man-made fiber textile products in Category 636 to 30,905 dozen.¹

The action taken with respect to the Government of India and with respect to imports of man-made fiber textile products from India has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *Federal Register*.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 82-31336 Filed 11-15-82; 8:45 am]

BILLING CODE 3510-25-M

¹ The level of restraint has not been adjusted to reflect any imports after December 31, 1981.

Adjusting Import Restraint Levels for Certain Cotton Apparel Products from Taiwan

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing by the application of swing the level of restraint for cotton knit shirts and blouses in Category 338/339 from 551,144 dozen to 584,213 dozen produced or manufactured in Taiwan and exported during the agreement year which began on January 1, 1982 and extends through December 31, 1982.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654))

SUMMARY: The bilateral agreement of June 8, 1978, as amended, concerning cotton, wool, and man-made fiber textile products from Taiwan, provides, among other things, for percentage increases in certain categories during an agreement year (swing). Pursuant to the terms of the bilateral agreement, the import restraint level established for Category 338/339 is being adjusted for the twelve-month period which began on January 1, 1982.

EFFECTIVE DATE: November 9, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 17, 1981, there was published in the *Federal Register* (46 FR 61497) a letter dated December 14, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including Category 338/339, produced or manufactured in Taiwan, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the level of restraint previously

established for Category 338/339 to 584,213 dozen.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

November 9, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: On December 14, 1981, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982 of cotton, wool, and man-made fiber textile products in certain specified categories, produced or manufactured in Taiwan in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.¹

Effective on November 9, 1982, the level of restraint established for Category 338/339 in the directive of December 14, 1981 is to be increased to 584,213 dozen.²

The action taken with respect to the authorities in Taiwan and with respect to imports of cotton textile products from Taiwan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *Federal Register*.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-31380 Filed 11-15-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF EDUCATION

National Advisory Council on Bilingual Education; Hearing

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice of Hearing.

¹The term "adjustment" refers to those provisions of the bilateral agreement of June 8, 1978, as amended, concerning cotton, wool, and man-made fiber textile products from Taiwan, which provide, in part, that: (1) Within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

²The level of restraint has not been adjusted to reflect any imports after December 31, 1981.

SUMMARY: This notice sets forth the Schedule and proposed agenda of a forthcoming hearing of the National Advisory Council on Bilingual Education. Notice of this hearing 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.

DATES: December 1, 1982—Public Hearing—10:00 a.m.—5:30 p.m.

ADDRESS: Public Hearing will be held at the Hilton Hotel—The Makani Room, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ramon Ruiz, Designated Federal Official, Room 421, Reporters Building, 400 Maryland Avenue, SW., Washington, DC 20202 (202-245-2922).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Bilingual Education is established under section 732(a) of the Bilingual Education Act (20 U.S.C. 3242). The Council is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations.

On December 1, 1982, in consonance with the Council's mission to advise in the preparation of regulations under the Bilingual Education Act, testimony will be heard on the following topics which impact on the Native American Bilingual Community:

- (1) 1983 Reauthorization,
- (2) Research,
- (3) Reports of the Effectiveness of Bilingual Education,
- (4) Interrelations and Interdependency of Bilingual Education and Modern Language Teachers
- (5) Importance of Bilingual Education on International Trade and Commerce.

Witnesses should notify Ramon Ruiz (see address above) of their intention of testifying.

The following procedures shall be observed during the public hearings:

- (1) Witnesses shall be heard on a first come basis
- (2) Witnesses shall limit their testimony to twenty minutes
- (3) All testimony shall be tape recorded
- (4) Exceptions to the aforementioned procedures shall be at the discretion of the Chairperson.

Records are kept of all Council proceedings, and are available for public inspection at the Office of Bilingual Education and Minority

Languages Affairs, Room 421, Reporters Building, 400 Maryland Avenue, SW., Washington, DC 20202 from the hours of 9:00 a.m. to 5:00 p.m.

Dated: November 8, 1982.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 82-31331 Filed 11-15-82; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Bilingual Education; Hearing and Meeting

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Bilingual Education. Notice of these meetings is required under the Federal Advisory Committee Act (U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: December 4, 1982—Public Hearings—1:30-5:00 p.m. December 3 & 5, 1982—Business Meeting—9:00-5:00 p.m.

ADDRESS: The Public Hearings on December 4, 1982 will be held in *Salon A* of the Marriott Hotel in San Antonio, Texas. The Business Meeting on December 3 & 5, 1982 will be held in the *Bonham* Room of the Marriott Hotel. The Marriott Hotel is located on 711 E. Riverwalk, San Antonio, Texas. For further information contact: Ramon Ruiz, Office of Bilingual Education and Minority Languages Affairs, Reporters Building, Room 421, Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202 (202-245-2922).

The National Advisory Council on Bilingual Education is established under section 732(a) of the Bilingual Education Act (20 U.S.C. 3242) to advise the Secretary of the Department of Education concerning the administration and operation of programs affecting limited English proficient children and adults.

On December 4, 1982, in consonance with the Council's advisory role, testimony will be heard on the following topics:

- (1) The economic implications of Bilingualism in the United States
- (2) The utilization of multi-lingual Personnel in International Trade.

The following procedures shall be observed during the public hearings:

1. Witnesses shall be heard on a first come basis;
2. Witnesses shall limit their testimony to fifteen minutes: ten minutes of formal presentation followed by five of questioning from Council members;
3. Two or more persons from the same organization shall designate one person to speak for the group;
4. Witnesses shall provide fifteen copies of their written testimony;
6. Witnesses may address the Council in either English or in their native language. The written testimony must be submitted in English;
7. All testimony shall be tape recorded;

8. Exceptions to the aforementioned procedures shall be at the discretion of the Chairman of the Public Hearings Committee.

December 3 & 5, 1982: The proposed agenda for the Business Meeting includes:

1. Old Business
 - Committee Reports
 - Staff Reports
 - Action Items
 - Miscellaneous
2. New Business
 - Digest of Testimony
 - Future Plans

Records will be kept of all Council proceedings and shall be available for public inspection after approval, by the full Council, of said records has been obtained. These records will be available in Room 421, Reporters Building, 300 7th Street, SW., Washington, D.C. Written requests for such records should be sent to 400 Maryland Avenue, SW., Reporters Building, Room 421, Washington, D.C. 20202.

In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Dated: November 8, 1982.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 82-31332 Filed 11-15-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Procurement and Assistance Management Directorate

AGENCY: Department of Energy.

ACTION: Notice of suspension and proposed debarment.

SUMMARY: This notice announces that the Department of Energy (DOE) has suspended Ronald A. Buening, and all organizations with which he is or may become affiliated, from participating in any new DOE contract or subcontract. In addition, Mr. Buening has been advised that DOE proposes to debar him and all such affiliated organizations for a period ending September 8, 1984, and beginning on December 20, 1982.

DATE: The suspension became effective on November 10, 1982, and shall last until the proposed debarment becomes effective or for 12 months, whichever occurs earlier.

FOR FURTHER INFORMATION CONTACT: Scott Sheffield, Procurement and Assistance Management Directorate, room 1I-018, Forrestal Building, Department of Energy, 1000 Independence Avenue, S.W., Washington D.C. 20585, telephone 202/252-8267.

SUPPLEMENTARY INFORMATION: The suspension and proposed debarment actions are being taken in accordance with the procedures set forth in Federal Procurement Regulations (FPR) temporary Regulation No. 65, 41 CFR subpart 1-1.6 47 FR 43692 (October 4, 1982), and the DOE Procurement Regulations (DOE-PR), 41 CFR Subpart 9-16. In addition to Ronald A. Buening, the known affiliated organizations affected by the suspension and proposed debarment actions are R. A. Buening, C.P.A., C.E.A.; R. A. Buening and Associates; and Applied Energy Conservation Techniques, Ltd. Mr. Buening's address is 441 Marines Drive, Tarpon Springs, Florida 33589. The address of all the known affiliates is the same: P.O. Box 1118, Tarpon Springs, Florida 33589.

During the period of suspension and subsequent debarment, DOE will neither accept nor consider a bid or proposal submitted by Mr. Buening or by any organization with which he is affiliated. In addition, DOE will not approve any new contract between him or any such affiliated organization and a DOE contractor.

The suspension and proposed debarment are based on Mr. Buening's September 8, 1982, conviction in the United States District Court for the Middle District of Florida for violation of Title 18 of the United States Code, sections 287 and 2. According to the judgment of conviction, Mr. Buening plead guilty to presenting a false claim of \$10,825.00 to the State of Florida Governor's Energy Office for payment under the DOE Grant Programs for schools and Hospitals and Buildings Owned by Units of Local Government

and Public Care Institutions, 10 CFR Part 455. Mr. Buening has been advised that he has the right to submit, by no later than December 10, 1982, a written request for a hearing and a reply to the notice of proposed debarment.

As required under DOE-PR 9-1.602, Mr. Buening and the above named affiliated organizations have been placed on the DOE Consolidated List of Debarred, Suspended, and Ineligible Contractors which is distributed periodically to DOE Contracting Officers. DOE has also notified the General Services Administration (GSA) of this suspension action. When the proposed debarment becomes effective, GSA shall be notified in accordance with FPR Temporary Regulation No. 65, 41 CFR Subpart 1-1.6, 47 FR 43692 (October 4, 1982).

Issued in Washington, D.C., on November 10, 1982

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 82-31284 Filed 11-15-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

W. R. Hughey Operating Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with W. R. Hughey Operating Company (Hughey) as a final order of the Department.

EFFECTIVE DATE: November 16, 1982.

FOR FURTHER INFORMATION CONTACT: James O. Neet, Jr., Chief Counsel, Dallas Office, Economic Regulatory Administration, 1341 West Mockingbird, Room 200E, Dallas, Texas 75247, 214/767-7404.

SUPPLEMENTARY INFORMATION: On September 29, 1982, 47 F.R. 42781, the ERA published a notice in the *Federal Register* that it had executed a proposed Consent Order with W. R. Hughey on September 10, 1982 which would not become effective sooner than 30 days after publication of that notice. The Consent Order with Hughey a producer of crude oil with an office in Tyler, Texas subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212, resolves potential civil liability of Hughey arising out of these regulations

during the period August 19, 1973 through January 27, 1981.

Notwithstanding the fact that both Hughey and DOE disagree concerning the proper application of such regulations and that neither disavows any position it has taken with regard to such issues, Hughey has agreed to this Consent Order to avoid protracted, expensive litigation. By the terms of this Consent Order, Hughey will remit \$595,000 to the DOE as follows: \$145,000 thirty (30) days after the effective date of this Consent Order, and three payments of \$150,000 no later than January 1, 1983, April 1, 1983, and July 1, 1983. These sums shall be deposited as miscellaneous receipts in the United States Treasury. In addition, Hughey agrees to pay the sum of \$5,000 in compromise of civil penalties. In executing this settlement agreement, Hughey does not admit to any violation or noncompliance with DOE regulations. Pursuant to 10 CFR 205.199(j), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Four comments were received. All four comments objected to what they perceived to be payment of the funds from Hughey to the U.S. Treasury. Three comments suggested that the proceeds, after payment to identifiable injured customers should be distributed to the various states in proportion to the amounts of crude oil sold to ultimate consumers in each state. The problems posed by the refining of the crude oil into various products before it reaches ultimate consumers were given little consideration. One of these comments also suggested guidelines to govern the use of such funds received by each state.

The primary goal of DOE enforcement activities in this sphere is to refund overcharges resulting from first sales of crude oil to those parties who actually suffered harm from them. Because of the ability of refiners which purchased crude oil from Hughey at allegedly improper prices to bank, allocate and pass through those costs to ultimate consumers under the refiner price regulations, it is virtually impossible to identify in what time period, to what product and to which purchasers the effects of crude oil violations were channelled. This impossibility of locating injured parties and ascertaining the extent of their injuries, led DOE to the conclusion that depositing the sum paid by Hughey in the U.S. Treasury is an appropriate remedy.

The other comment suggested that the funds received from Hughey should be

paid to the participants in the Entitlements Program. While it may be theoretically possible to perform calculations necessary to implement such a remedy, it is not administratively feasible, particularly since a recalculation would be required each time an entitlements dispute was resolved. The administrative burden would be multiplied by the need to monitor the reissuance of orders for the months involved and to determine the impact upon each refiner's price determinations for products sold and resold in the distribution chain. Furthermore, each refiner's opportunity to pass through increased costs suggests that a refiner whose entitlements burden was increased by the overcharges did not necessarily bear the full burden of them.

Having considered all the comments submitted, DOE has determined that the proposed Consent Order with Hughey should be made final in its present form. The proposed Consent Order, therefore, was made final and effective the date of publication of this notice.

Issued in Dallas, Texas, on the 9th day of November, 1982.

Ben Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 82-31253 Filed 11-15-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-3-FRL 2243-2]

Proposed Approval of PSD Permit Extension; Adolph Coors Co.; Public Comment Period

Notice is hereby given that on June 1, 1982, the Adolph Coors Company requested a three year extension of the Prevention of Significant Air Quality Deterioration (PSD) permit issued by the Environmental Protection Agency on March 19, 1981. The original PSD permit authorized construction, under certain conditions, of a ten million barrel per year brewery in Elkton, Virginia. The 18-month construction period authorized by the PSD regulations, 40 CFR 52.21(r)(2), was to have expired on September 19, 1982. Expiration of the permit is now stayed pending resolution of the Company's PSD permit extension request.

EPA believes the Company has adequately justified, in accordance with 40 CFR 52.21(r)(2), its inability to begin construction within the allotted time frame. As stated in its June 1, 1982 letter, the numerous preconstruction projects,

including geotechnical investigations, groundwater monitoring and tests, property acquisition and zoning hearings, and development of engineering plans and specifications has contributed to the delay. The time period needed to obtain other Federal and State permits needed to begin construction and the current economic conditions have also precluded construction of this project during the past 18-months.

EPA reviewed the Company's request for a three year extension of its PSD permit and requested additional information as to why this period of time, rather than some other time period, was needed. On August 16, 1982, the Company provided that information. The anticipated (in 1977) production growth rate has not occurred and, because it has been the Company's policy historically to finance expansion internally, it is necessary to expand sales from their Golden, Colorado facility to generate the capital needed to finance construction of the second brewery. Eighteen months would be an inadequate period of time to allow for market demand conditions and the national economy to improve to such a degree to provide the needed sales growth. It now appears that the requested three year extension of the PSD permit will provide the time needed for national economic conditions to improve sufficiently and for correction of certain problems which are specific to the expansion of the sales of the Company's products within its current marketing area.

On July 29, 1982, the Commonwealth of Virginia notified EPA that it knew of no planned expansions in the Elkton area that would add to the predicted impacts of the proposed Coors facility. The Commonwealth further stated that it understood the need for a three year extension and had no objection to the approval of the requested extension.

In light of the above, EPA is today proposing approval of the requested extension and inviting public comment relative to this decision. The proposed extension is conditioned as follows:

1. The PSD permit for the Coors' Elkton, Virginia facility is extended until September 19, 1985.

2. All emission limitations, reporting requirements and permit conditions contained in the March 19, 1981 permit remain in effect unless and until revised by the Environmental Protection Agency.

3. By March 19, 1984, the Company must submit an updated status report on this project including the corporate financial data, consumer market conditions and construction status.

4. By June 30, 1984, EPA will complete its review of this material and perform a re-evaluation and update, if necessary, of the BACT determination and air quality modeling analyses. At this time, if construction has not yet commenced, permit conditions and emission limitations will be revised if appropriate.

PUBLIC COMMENT PERIOD: Comments must be submitted on or before December 16, 1982.

ADDRESSES: Copies of the extension request, PSD permit, and supporting documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency,
Region III, Air Programs & Energy
Branch, Curtis Building, Sixth &
Walnut Streets, Philadelphia, PA
19106. ATTN: Ms. Eileen M. Glen.
Virginia State Air Pollution Control
Board, Region II, Suite A, 5338 Peters
Creek Road, Roanoke, VA 24019,
ATTN: Mr. Donald L. Shepherd.
Public Inspection Reference Unit, EPA
Library, Room 2922, U.S.
Environmental Protection Agency 401
M Street, S.W., Washington, DC 20460

All comments on the proposed PSD permit extension submitted on or before December 16, 1982 will be considered and should be submitted to Mr. James E. Sydnor at the EPA Region III address stated above. For further information contact Ms. Eileen M. Glen at the Region III address stated above or call 215/597-8187.

(42 U.S.C. 7401-7642)

Dated: October 29, 1982.

Peter N. Bibko,

Regional Administrator.

[FR Doc. 82-31254 Filed 11-16-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS 00036; TSH-FRL 2244-2]

Organization for Economic Cooperation and Development; Availability of Final Reports of Working Parties on Hazard Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that the Office of Pesticides and Toxic Substances is making available for public comment the final reports produced by the working parties of the Hazard Assessment Project, Organization for Economic Cooperation and Development (OECD) Chemicals Program. EPA is responsible for

providing U.S. feedback to the OECD as part of their consideration of the need for any revisions. There are three reports available from the Health Effects, Natural Environmental Effects, and Exposure Analysis Working Parties. EPA is particularly interested in comments on data interpretation guidance provided in the reports.

DATE: Comments must be received on or before December 16, 1982.

ADDRESSES: All written comments should be addressed to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

The reports will be available for review at EPA Headquarters and all EPA Regional offices, as well as through the Chemical Manufacturers Association and the *Ad Hoc* Public Interest Steering Committee. See Supplementary Information for a list of these addresses. Comments should bear the identifying document control number OPTS 00036.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St. SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Under the OECD Chemicals Testing Program, begun in 1977, six expert working groups were formed. One of these, the Step Systems Group was given a mandate to consider the concept of step sequence testing. In order better to fulfill its mandate, the OECD Hazard Assessment Project was undertaken in December 1979 to develop methods for hazard assessment and selection criteria for further testing and assessment of chemicals. Three working parties were formed and coordinated by the Step Systems Group. They prepared reports on health effects, natural environmental effects, and exposure analysis. These working parties took as their basis the data elements of the OECD Minimum Pre-Marketing set of Data (MPD), and formulated guidance on this interpretation of the various data elements and their contribution to an overall hazard assessment.

As recommended by the Step Systems group and endorsed by the Chemicals Group, the Working Party reports are now being circulated for review and comment in all 24 OECD member countries. When all comments are

received, a review panel will be established to consider issues raised in national comments and revise Data Interpretation Guides (DIGs) accordingly.

The following should be kept in mind when making comments. The review of the reports will be carried out in connection with a document prepared for action by the Second High Level meeting of the OECD Chemicals Group (November 15-17, 1982 in Paris) entitled "OECD Data Interpretation Guides for Initial Hazard Assessment of Chemicals." Member states are thus being requested to focus their comments primarily on those portions of the reports dealing specifically with the interpretation of data elements (Data Interpretation Guides—DIGs). Examples of sections which could be particularly relevant in this context are the following:

1. *Exposure analysis.*

a. DIGs for chemical identity, physical chemical parameters, degradation and accumulation potential and the economic life cycle of the chemical (Appendix to the Final Report).

b. Approaches to environmental exposure analysis through Potential Environmental Distribution (PED) and Potential Environmental Concentration (PEC) (pp. 25-56 in the Final Report).

2. *Natural environmental effects.*

a. Evaluation of specific tests (Chapter 4, pp. 10-22).

b. Comparative Toxicology (Chapter 6, pp. 27-29).

3. *Health effects.*

a. Evaluation of individual MPD test elements (Chapter 3.2, pp. 10-43).

b. Principles in Pre-market Hazard Assessment for Human Health Effects (Chapter 3, pp. 3-4).

Because the OECD will accept only national comments, all comments from U.S. sources will be reviewed by EPA in the preparation of the U.S. national comments. Comments must be received by December 16, 1982 in order to be incorporated into the U.S. national comment in time for the U.S. to meet the December 31 deadline established by the OECD for receipt of national comments. Send comments to the address listed above.

Copies of the report are available for review in Rm. E-107 at the EPA Headquarters noted above from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays. They are also available at:

1. Paul Heffernan, Environmental Protection Agency, Region I, Pesticides Branch, J. F. Kennedy Federal Building, Boston, Massachusetts 02203 (617-223-0585), FTS: (8-223-0585).

2. Kevin Bricke, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007 (202-264-1925), FTS: (8-264-4296).

3. Ed Cohen, Environmental Protection Agency, Region III, Air Monitoring Branch, Environmental Services Division, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106 (215-597-4058), FTS: (8-597-7668).

4. Ralph Jennings, Environmental Protection Agency, Region IV, Pesticides Branch, 345 Courtland Street, N.E., Atlanta, GA 30308 (404-881-3864), FTS: (8-257-3864).

5. Karl Bremer, Environmental Protection Agency, Region V, 230 South Dearborn Street, Room 1165, Chicago, Illinois 60604 (313-353-2291), FTS: (8-886-6002).

6. Norman Dyer, Chief, Pesticides and Toxics Branch, Environmental Protection Agency, Region VI, First International Bldg., Dallas, Texas 75207 (214-767-2734), FTS: (8-729-2734).

7. Marvin Frye, Environmental Protection Agency, Region VII, Pesticides and Toxics Section, 324 East 11th Street, Kansas City, MO 64106 (816-374-6538), FTS: (8-758-3036).

8. Dean Gillam, Environmental Protection Agency, Region VIII, Program Support Section, 1860 Lincoln Street, Denver, Colorado 80295 (303-827-3926), FTS: (8-327-3926).

9. Nancy Frost, Environmental Protection Agency, Region IX, Toxics and Waste Program Branch, 215 Fremont Street, San Francisco, CA 94105 (415-454-8162), FTS: (8-454-8162).

10. Jim Everts, Environmental Protection Agency, Region X, Pesticides Branch, 1200 6th Avenue, Seattle, Washington 98101 (206-399-1090), FTS: (8-399-1090).

11. Fran Irwin, Conservation Foundation, 1717 Massachusetts Avenue, NW., Washington, D.C. 20036 (202-797-4369).

12. George Ingle, Chemical Manufacturers Association, 2501 M Street, NW., Washington, D.C. 20007 (202-887-1339).

It is suggested that interested persons telephone ahead to be certain of the visiting hours at these locations.

Dated: November 2, 1982.

John A. Todhunter,
Assistant Administrator for Pesticides and
Toxic Substances.

[FR Doc. 82-31233 Filed 11-15-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Closed Circuit Test of the Emergency Broadcast System; Week of December 6, 1982

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of December 6, 1982. Only ABC, MBS, NPR, AP Radio, CBS, IMN, NBC and UPI Audio Radio network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. The ABC, CBS, NBC and PBS television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This is a closed circuit test and will not be broadcast over the air.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 82-31364 Filed 11-15-82; 8:45 am]

BILLING CODE 6712-01-M

John P. Martin and C. Lucille Martin, Tenants in Common, and Redwood Broadcasting Co.; Designating Applications for Consolidated Hearing on Stated Issues

[BC Docket No. 82-748, File No. BPH-810601AC; BC Docket No. 82-749, File No. BPH-811026AK]

In re Applications of John P. Martin and C. Lucille Martin, Tenants in Common, Eureka, California, Req: 101.5 MHz, channel 268C, 100 kW (H&V), 1644 feet; Redwood Broadcasting Company, Eureka, California, Req: 101.5 MHz, channel 268C, 89 kW (H&V), 2052 feet; for construction permit for a new FM station.

Hearing Designation Order

Adopted: November 2, 1982.

Released: November 8, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by John P. Martin and C. Lucille Martin,

Tenants in Common (Martin) and Redwood Broadcasting Company (Redwood).¹

2. Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause may be located outside that community. Both Martin and Redwood specify in their response to Item 5, Section V-B that their respective main studios will be at a location "To Be Determined" with no indication that the determination would be limited to sites within the city of license. Under these circumstances, both Martin and Redwood will be required to file either an amended response to the above-referenced item and/or, if appropriate, a showing of good cause should one or both propose to locate their main studios outside Eureka.

3. Since no determination has been reached that the antennas proposed by either Martin or Redwood would not constitute a menace to air navigation, an issue regarding this matter is required.

4. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to either of the applicants.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are

¹ Previously, we denied a "Petition to Deny and to Consolidate" the Martin application, filed by Thomas C. and Essie L. Collins, applicants for a new FM station in Burney, California. We found that Collins' allegations regarding a concentration of control issue were insufficient to establish a presumption of common control for the purpose of applying the multiple ownership rules, and refused to consolidate the Martin application into the Burney, California comparative hearing in BC Docket Nos. 81-298-299, *Letter to Thomas C. and Essie L. Collins*, by the Chief, Broadcast Facilities Division, dated August 11, 1982. Accordingly, there is no need for further discussion of the petition.

designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by John P. Martin and C. Lucille Martin, Tenants in Common, would constitute a hazard to air navigation.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Redwood Broadcasting Company would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if either, should be granted.

7. It is further ordered, that the Federal Aviation Administration is made a party to the proceeding with respect to the air hazard issue only.

8. It is further ordered, that John P. Martin and C. Lucille Martin, Tenants in Common, and Redwood Broadcasting Company shall file an amended Section V-B Item 5 or, if appropriate, a showing of good cause if their main studio will be located outside their city of license with the presiding Administrative Law Judge.

9. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads, Chief,
Broadcast Facilities Division.

[FR Doc. 82-31283 Filed 11-15-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-752, Filed No. BPH-810619AB and BC Docket No. 82-753, File No. BPH-811130BD]

Loogootee Radio, Inc. and Community Broadcast Services of Loogootee, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: November 2, 1982.

Released: November 8, 1982.

In re applications of Loogootee Radio, Inc., Loogootee, Indiana, Req. 94.3 MHz, channel 232, 2.0 kW H&V, 377 feet and Community Broadcast Services of Loogootee, Inc., Loogootee, Indiana, Req. 94.3MHz, channel 232, 1.90 kW(H&V), 400 feet; for construction permits for new FM stations.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (i) The above captioned mutually exclusive applications filed by Loogootee Radio, Inc. (Loogootee) and Community Broadcast Services of Loogootee, Inc. (Community); (ii) a petition to deny filed by Loogootee;¹ and (iii) an opposition thereto.

2. *Community*. Community has petitioned for leave to amend its application. The accompanying amendment was filed July 8, 1982, one day after the filing of its opposition to the petition to deny filed by Loogootee on June 21, 1982. The last day for filing amendments as a matter of right was June 21, 1982. We find that good cause has been shown for the filing of the amendment under Section 1.65 of the Commission's Rules, and, accordingly, the amendment will be accepted for filing. However, since an applicant cannot improve its comparative position after the time for amendments as of right has passed, *Cypress Communications, Inc.*, 47 RR 2d 132 (1980), any comparative advantage resulting from Community's amendment will be disallowed.

3. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive FM service from the proposals. Consequently, the areas and populations which would receive FM service of 1

¹Loogootee's petition to deny is essentially a petition to specify issues. Since the Commission's Report and Order in re Revised Procedures for the Processing of Contested Broadcasting Applications; Amendments of Part 1 of the Commission's Rules, 72 FCC 2d 202, 45 RR 2d 1220 (1979), directed the deletion of all issue pleadings in pending cases, the matters sought to be raised in this petition have not been considered. Accordingly, an opportunity to raise any allegations contained therein will be afforded the parties post-designation pursuant to § 1.229.

mv/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a preference should accrue to either of the applicants.

4. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, that, pursuant to Section 309(e) the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in the light of evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, that the petition for leave to amend filed by Community is granted, and the corresponding amendment is accepted but that no improvement in Community's comparative standing will be allowed.

7. It is further ordered, that, to avail themselves of the opportunity to be heard the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division,
Broadcast Bureau.

[FR Doc. 82-31292 Filed 11-15-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 82-757, File No. 22512-CD-P-(2)-81 and CC Docket No. 82-758, File No. 20004-CD-P-(3)-82]

Tel-E-Page, Inc. and William G. Lassiter, Jr., D/B/A Flagler Communications Service; Designating Applications for Consolidated Hearing on Stated Issues

Order Designating Applications for Hearing

Adopted November 3, 1982.

Released November 8, 1982.

In re applications of Tel-E-Page, Inc., for a construction permit for a new two-way station to operate on frequencies 454.075 MHz and 454.225 MHz in the Domestic Public Land Mobile Radio Service (DPLMRS) at Stuart, Florida and William G. Lassiter, Jr. d.b.a. Flagler Communications Service, for authority to modify the facilities of two-way Station K1Y446 at Rivera Beach, Florida and for a construction permit to add additional locations for station K1Y446 to operate on frequencies 454.125 and 454.225 MHz in the DPLMRS at Stuart, Florida.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Tel-E-Page, Inc. (TEP), and William G. Lassiter d.b.a. Flagler Communications Service (Flagler). TEP proposes to establish a new two-way station to operate on frequencies 454.075 and 454.225 MHz at Stuart, Florida. Flagler proposes to modify Station K1Y446 by relocating from Rivera Beach to Singer Island, Florida, and to add additional locations to operate on frequencies 454.125 and 454.225 MHz at Stuart, Florida. These proposals to use frequency 454.225 MHz in the same geographic area are electrically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. TEP's proposal to use frequency 454.075 MHz and Flagler's to use frequency 454.125 MHz and to relocate Station K1Y446 are not mutually exclusive with any other pending applications and will be granted.

2. TEP filed a Petition to Deny Flagler's application. Flagler filed a Motion for Separate Consideration and Grant of its application. Responsive pleadings were filed.¹ TEP alleges that

¹Flagler filed an informal objection requesting that TEP's application be consolidated with another TEP application File No. 22489-CD-P-(1)-81 and dismissed as defective. Due to the Mobile Services Division action returning as defective File No. 22489-CD-P-(1)-81, this request is now moot.

Flagler failed to demonstrate sufficient public need for its proposal and that Flagler has operated its Rivera Beach facility as a one-way station in violation of the Commission's Rules. In its reply, Flagler rebuts TEP's contentions and avers that the one-way usage issue has been previously investigated by the Commission. In its Motion for Separate Consideration, Flagler requested that its application to relocate Station K1Y446 to Singer Island be considered and granted immediately, in order to resolve television interference complaints.² TEP opposes this motion alleging that its Petition to Deny includes the relocation portion of the application and that Flagler should not be permitted to relocate this facility while it is operating in violation of the Commission's Rules.

3. We have reviewed the application and the pleadings and we find that TEP has raised no material and substantial questions of fact. Flagler has demonstrated sufficient public need for the proposals.³ Although Flagler may have previously operated the Rivera Beach facility solely for one-way service, this matter had been previously investigated and considered by the Commission.⁴ Flagler has also provided evidence that it is currently providing two-way service on this facility. There is also uncontradicted evidence that Flagler's existing facility is causing television interference and that it is anticipated that the proposed relocation of this station would alleviate the problem.

4. We find both applicants to be legally, technically, and otherwise qualified to construct and operate the proposed facilities. We further find that a grant of the request by Flagler to relocate Station K1Y446 and to operate on frequency 454.125 MHz and TEP's request to operate on frequency 454.075 MHz will serve the public interest, convenience and necessity.

5. Accordingly, it is ordered, pursuant to section 309 of the Communications Act of 1934, as amended, that the application of William G. Lassiter d/b/a

Flagler Communications Service, File No. 20004-CD-P-(3)-82, is granted in part to the extent that the requests to modify Station K1Y446⁵ and to operate on frequency 454.125 MHz is granted, and that the application of Tel-E-Page, Inc., File No. 22512-CD-P-(2)-81, is granted in part to the extent that the request for frequency 454.075 MHz is granted, and the applications of Tel-E-Page, Inc., File No. 22512-CD-P-(2)-81 and William G. Lassiter d/b/a Flagler Communications Service, File No. 20004-CD-P-(3)-82 for use of frequency 454.225 MHz are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 39 dBu contours,⁶ based upon the standards set forth in Section 22.504(a) of the Commission's Rules,⁷ and to determine and compare the relative demand for the proposed services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

6. It is further ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

7. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

8. It is further ordered, that the applicants may file written notices of appearances under § 1.221 of the

²The action we are taking moots the requests in the Motion for Separate Consolidation and Grant, thus it will be dismissed.

³For the purpose of this proceeding, the interference-free area is defined as the area within the 39 dBu contour as calculated from § 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6404, equation 8.

⁴Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 450 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. [The applicants should consult with Bureau counsel with the goal of reaching joint technical exhibits.]

Commission's Rules within 20 days of the release date of this Order.

9. It is further ordered, that the Petition to Deny filed by Tel-E-Page, Inc. in File No. 20004-CD-P-(3)-82, is denied.

10. It is further ordered, that the Motion for Separate Consolidation and Grant filed by Flagler Communications Service is dismissed as moot.

11. The Secretary shall cause a copy of this order to be published in the Federal Register.

William F. Adler,
Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-31294 Filed 11-15-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-743, File No. BPCT-811028KF and BC Docket No. 82-744, File No. BPCT-820106KH]

Ulster County Communications Corp. and Woodstock Broadcast Group, Inc.; for Construction Permit for a New Television Station; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: November 1, 1982.

Released: November 5, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Ulster County Communications Corp. (UCCC) and Woodstock Broadcast Group, Inc. (Woodstock) for a new commercial television station to operate on Channel 63, Kingston, New York;¹ and petitions for leave to amend filed by both UCCC and Woodstock.²

2. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would be served by each. Consequently, for the purpose of comparison, the areas and populations which would receive television service of 64 dBu or greater intensity (Grade B), together with the

¹A Notice of Proposed Rulemaking, BC Docket 79-269, released March 8, 1980, proposes to amend § 73.606(b) of the Commission's Rules (Table of Assignments) by allocating Channel 62 to Kingston in place of the Channel 63 assignment. If this rulemaking were to be adopted, the transmitter site proposed by UCCC would be 1 mile short-spaced to the reference point for the vacant assignment of Channel 55 to Amsterdam, New York. UCCC has advised the Commission that it would request a waiver of the short-spacing rules if BC Docket 79-269 were adopted.

²The petitions for leave to amend consist of minor amendments which do not improve the comparative standing of either applicant. Good cause has been shown for granting these petitions.

²Flagler alleges it has received complaints from the Oceanree Condominium Owners Association who complain that Flagler's facility at Rivera Beach interferes with television reception. A letter from the President of the Association to Flagler's attorney in Washington was included as an exhibit to the Motion.

³Flagler's proposal for additional channels at Stuart meets the interim standards of Docket 20870, 84 FCC 2d 857 (1981).

⁴On March 24, 1981 an informal complaint was filed by Coral Communications. The Commission's investigation of this matter was terminated on August 3, 1981. In a letter to the complainant the staff stated that Flagler's response adequately answered the complaint. Coral Communications is related to Tel-E-Page through common controlling principals.

availability of other primary television services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

Conclusion and Order

3. The applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, however, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, it is ordered, that the petitions for leave to amend filed by Ulster County Communications Corp. and Woodstock Broadcast Group, Inc. are granted.

5. It is further ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

6. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

7. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,
Chief, Broadcast Facilities Division,
Broadcast Bureau.

[FR Doc. 82-31291 Filed 11-15-82; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Forms Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Ch. 35).

Type: Extension
Title: Disaster Assistance Center
Registration (3067-0009)

Abstract: This form is used as a record of a disaster victim's visit to a Center and as a referral form to route him/her through the Center. The victim then is aided in getting assistance under the Disaster Relief Act of 1974.

Type of Respondents: Individuals
Number of Respondents (Annual):
80,000

Burden Hours: 40,000
OMB Desk Officer: Ken Allen (202)
395-3786.

Copies of the above information collection clearance package can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley (202) 287-9906, Federal Plaza Center, 500 C Street, SW, Washington, DC 20472.

Written comments and recommendations for the proposed information collection packages should be sent to Linda Shiley, FEMA Reports Clearance Officer, Federal Plaza Center, 500 C Street, SW, Washington, DC 20472 and to Ken Allen, Desk Officer, OMB Reports Management Branch, Room 3235 New Executive Office Building, Washington, DC 20503.

Dated: November 1, 1982.

Charles M. Girard,
Associate Director.

[FR Doc. 82-31255 Filed 11-15-82; 8:45 am]
BILLING CODE 6718-01-M

Agency Forms Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection packages for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Ch. 35). Each list describes the type of request, the title of information collection, with OMB number, if any, abstract of the data collection, the type of respondents, number of respondents per year, and estimated burden hours per year.

Revision

Verification of Income for Occupants of Temporary Housing (3067-0041)

Supports determination under Disaster Relief Act of 1974 regarding initial eligibility, recertification and termination of assistance connected with occupants ability to pay for adequate alternate housing. Used for verification only.

Individuals and households
500 respondents
50 burden hours

Extension (no change)

Request for grant-in-lieu (3067-0044)
The form standardizes information requirements for applicants under Disaster Relief Act of 1974 who elect to receive a grant-in-lieu.

State and local governments
500 Respondents
50 burden hours

Extension (no change)

Request for Advance or Reimbursement—SF 270 modified (3067-0049)

This request is used in connection with major disasters to disburse to applicants under the Disaster Relief Act the necessary fund advances, and for payments for emergency work, and repair, restoration and replacement of damaged facilities.

State and local governments
12,500 respondents
6,250 burden hours
OMB Desk Officer: Ken Allen (202)
395-3786

Copies of the above information collection clearance package can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley (202) 287-9906, Federal Plaza Center, 500 C Street, SW., Washington, DC 20472.

Written comments and recommendations for the proposed information collection packages should be sent both to Linda Shiley, FEMA Reports Clearance Officer, Federal Plaza Center, 500 C Street, SW, Washington, D.C. 20472 and to Ken Allen, Desk Officer, OMB Reports management Branch, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Charles M. Girard,
Associate Director.

[FR Doc. 82-31256 Filed 11-15-82; 8:45 am]
BILLING CODE 6718-01-M

Agency Forms Submitted to the Office of Management and Budget for Clearance

Information collection packages were submitted recently by the Federal Emergency Management Agency (FEMA) to the Office of Management and Budget for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Ch. 35). These are renewals, revisions and reinstatements. Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information.

Extension (no change)

Inspection and Estimate/Adjusters Short Form Report/Worksheet contents of personal property/Proof of Loss/Notice of Loss. 3067-0821

Forms are used for processing of claims for flood damages under the National Flood Insurance Program authorized by the National Flood Insurance Act.

Individuals, households, businesses
200,000 respondents
Estimated total burden hours 50,000

Extension (Adjustment to Burden Only)

Standard Reinsurance Contract. 3067-0042

This contract reinsures against excess aggregate losses from riots or civil disorders to eligible insurers. Contract authorized under Urban Property Protection and Reinsurance Act of 1968.

Businesses (insurance companies)
100 Respondents
300 burden hours

Revision (Adjustment to Burden)

FAIR Plan Quarterly Report 3067-0019

This form is used to collect data for statewide plans to assure FAIR access to insurance requirements in urban areas under the Urban Property Protection and Reinsurance Act.

State insurance authorities
28 respondents
952 burden hours

Revision

Referral to Alternate Housing 3067-0035

Form is used to provide documentation when difficulties are encountered in relocating disaster temporary housing occupants into suitable alternate housing. This housing authorized by Disaster Relief Act of 1974.

Individuals and households
500 respondents
42 burden hours

Reinstatement

Notice of Intent to Vacate Temporary Housing 3067-0047

Used by occupant to notify Disaster Housing Office (DHO) of intended alternate housing plans in order DHO may schedule inspections, anticipate workloads. Provides statistical data. Used with Disaster Temporary housing under Disaster Relief Act.

Individuals and households
5000 respondents
425 burden hours

Revision (conversion from agency form to standard form)

National Defense Executive Reserve Personal Qualifications Statement. Former number 3067-0001.

Form used by private sector individuals who will fill executive positions in national emergency.

Individuals
6000 respondents
4500 burden hours
OMB Desk Officer: Ken Allen (202) 395-3786.

Copies of the above information collection clearance package can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley (202) 287-9906, Federal Plaza Center, 500 C Street, SW, Washington, D.C. 20472 and to Ken Allen, Desk Officer, OMB Reports Management Branch, Room 3235 New Executive Office Building, Washington, D.C. 20503.

Dated: November 1, 1982.

Charles M. Girard,
Associate Director.

[FR Doc. 82-31257 Filed 11-15-82; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

Meeting; Amendment to Agenda

Reference *Federal Register*, dated November 1, 1982, Vol. 47, No. 211, page 49468, Notice of Meeting for the Federal Savings and Loan Advisory Council on Monday, December 6, Tuesday, December 7, and Wednesday, December 8, 1982.

The "Mark-to-Market" item scheduled for discussion on Monday, December 6 at 10:00 a.m. has been withdrawn, and has been replaced by "FSLIC Insurance

Premium Study," assigned to Subcommittee A.

Richard T. Pratt,
Chairman.

[FR Doc. 82-31252 Filed 11-15-82; 8:45 am]

[BILLING CODE 6720-01-M]

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 10 days after the date of the *Federal Register* in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreement No.: 10041-9.

Filing Party: Hopewell H. Darneille III, Bowman Conner Touhey & Thornton, 2828 Pennsylvania Avenue, N.W., Washington, D.C. 20007.

Summary: Agreement No. 10041-9, between Delta Steamship Lines, Inc., and Compania Peruana de Vapores, extends the U.S. Atlantic/Peru Equal Access, Cargo Revenue Pooling and Sailing Agreement through June 30, 1983, six months past its current December 31, 1982 expiration date.

Dated: November 10, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 82-31250 Filed 11-15-82; 8:45 am]
BILLING CODE 6930-01-M

[Independent Ocean Freight Forwarder License No. 2042]

William L. Bliss, d.b.a. Superior Shipping Co.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of William L. Bliss, dba Superior Shipping Co., 6214 Homeview, Houston, TX 77049 was cancelled effective October 29, 1982.

By letter dated October 5, 1982, William L. Bliss, dba Superior Shipping Co., was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2042 would be automatically revoked unless a valid surety bond was filed with the Commission.

William L. Bliss, dba Superior Shipping Co. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2042 be and is hereby revoked effective October 29, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2042 issued to William L. Bliss, dba Superior Shipping Co. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon William L. Bliss, dba Superior Shipping Co.

Albert J. Klingel, Jr.,
Director, Bureau of Certification and Licensing.

[FR Doc. 82-31316 Filed 11-15-82; 8:45 am]
BILLING CODE 6730-01-M

[Docket No. 82-53]

Companhia Siderurgica Nacional (Brazilian National Steel Co.) v. Netumar Lines; Filing of Complaint and Assignment.

Notice is given that a complaint filed by Companhia Siderurgica Nacional against Netumar Lines was served November 8, 1982. Complainant alleges that respondent has subjected it to an overcharge of rates for ocean transportation.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,
Secretary.

[FR Doc. 82-31319 Filed 11-15-82; 8:45 am]
BILLING CODE 6730-10-M

[Independent Ocean Freight Forwarder License No. 2323]

Samuel S. Gambino, d.b.a. Gulf South Shipping Services; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Samuel S. Gambino, dba Gulf South Shipping Services, 1608 International Trade Mart, New Orleans, LA 70130 was cancelled effective October 24, 1982.

By letter dated October 5, 1982, Samuel S. Gambino, dba Gulf South Shipping Services was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2323 would be automatically revoked unless a valid surety bond was filed with the Commission.

Samuel S. Gambino, dba Gulf South Shipping Services has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2323 be and is hereby revoked effective October 24, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2323 issued to Samuel S. Gambino, dba Gulf South Shipping Services be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Samuel S. Gambino, dba Gulf South Shipping Services.

Albert J. Klingel, Jr.,
Director, Bureau of Certification & Licensing.

[FR Doc. 82-31317 Filed 11-15-82; 8:45 am]
BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

International Shipping Company, 9009 La Cienega Blvd., Inglewood, CA 90301, Officer: Erwin Rautenberg, President/Sole Stockholder.
Withers Transfer & Storage Coral Gables, Inc., 357 Almeria Avenue, Coral Gables, FL 33134.

Dated: November 10, 1982.
By the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 82-31318 Filed 11-15-82; 8:45 am]
BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2123]

Interport, Inc.; Order of Revocation

On October 25, 1982, Interport, Inc., Route 3 Box 617, Palm Harbor, FL 33563, surrendered its Independent Ocean Freight Forwarder License No. 2123 for revocation. John M. Norton, President of Interport, Inc., advised the Commission that Interport, Inc. terminated business

on December 31, 1979 and has not been an active corporation since that date.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2123 issued to Interport, Inc. be revoked effective December 31, 1979, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon the principals of Interport, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-31315 Filed 11-15-82; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License No. 2389]

Interstate World Forwarders, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Interstate World Forwarders, Inc., 1650 Pacific Coast Highway, Suite 308, Redondo Beach, CA 90277 was cancelled effective October 28, 1982.

By letter dated October 5, 1982, Interstate World Forwarders, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2389 would be automatically revoked unless a valid surety bond was filed with the Commission.

Interstate World Forwarders, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2389 be and is hereby revoked effective October 28, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2389 issued to Interstate World Forwarders, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Interstate World Forwarders, Inc.

Albert J. Klingel, Jr.,

Director Bureau of Certification & Licensing.

[FR Doc. 82-31314 Filed 11-15-82; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Aegean Cruises, S.A. d.b.a. Epirotiki Lines, c/o Epirotiki Lines, Inc., 551 Fifth Avenue, New York, New York 10017.

Dated: November 10, 1982.

Francis C. Hurney,
Secretary.

[FR Doc. 82-31313 Filed 11-15-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice 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 voting shares or assets of a 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)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the 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 Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222.

1. Southwest Bancshares, Inc., Houston, Texas; to acquire 100 percent

of the voting shares or assets of The Marshall National Bank, Marshall, Texas. Comments on this application must be received not later than December 8, 1982.

Board of Governors of the Federal Reserve System, November 9, 1982.

James McAfee,

Associated Secretary of the Board.

[FR Doc. 82-31235 Filed 11-15-82; 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 application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Powell County Bancorp Inc., Stanton, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Powell County Bank, Stanton, Kentucky. Comments on this application must be received not later than December 9, 1982.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Texas Bancorporation, Inc., Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of the following: The National Bank of Texas at Fort Worth, Fort Worth, Texas; and Weatherford Bancshares, Inc., Weatherford, Texas, and thereby indirectly acquire 98.8 percent of First National Bank of Weatherford, Weatherford, Texas. Comments on this application must be received not later than December 8, 1982.

Board of Governors of the Federal Reserve System, November 9, 1982.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 82-31236 Filed 11-15-82; 8:45 am]

BILLING CODE 6210-01-M

Alexandria State Co.; Formation of Bank Holding Company

Alexandria State Company, Aurora, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of State Bank of Alexandria, Alexandria, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Alexandria State Company, Aurora, Nebraska, 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 general insurance activities. These activities would be performed from offices of the bank in Alexandria, Nebraska, and the geographic areas to be served are the counties of Fillmore, Saline, Jefferson, and Thayer, Nebraska. 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 Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than December 9, 1982.

Board of Governors of the Federal Reserve System, November 9, 1982.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 82-31239 Filed 11-15-82; 8:45 am]

BILLING CODE 6210-01-M

Heber Springs Bancshares, Inc.; Formation of Bank Holding Company

Heber Springs Bancshares, Inc., Heber Springs, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 86.9 per cent or more of the voting shares of Heber Springs State Bank, Heber Springs, Arkansas. 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)).

Heber Springs Bancshares, Inc., Heber Springs, Arkansas, 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 directly in the activities of placing commercial mortgage loans to third party lenders and performing real estate appraisals. These activities would be performed from the main office of Applicant and applicant's subsidiary bank in Heber Springs, Arkansas, and the geographic area to be served is the state of Arkansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than December 8, 1982.

Board of Governors of the Federal Reserve System, November 9, 1982.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 82-31238 Filed 11-15-82; 8:45 am]

BILLING CODE 6210-01-M

Hill Samuel International Banking Corp.; Application To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Hill Samuel International Banking Corporation, New York, New York. Hill Samuel International Banking Corporation would operate as a subsidiary of Hill Samuel Group PLC, London, England; Hill Samuel & Co. Limited, London, England; Hill Samuel International Limited, London, England; and Hill Samuel & Co., BV, Rotterdam, Netherlands. The factors that are considered in acting on the 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 New York. 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 December 8, 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, November 9, 1982.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 82-31237 Filed 11-15-82; 8:45 am]

BILLING CODE 6210-01-M

First Security Corp.; Proposed Acquisition of Murray First Thrift & Loan Co. and Capitol Thrift and Loan Co.

First Security Corporation, Salt Lake City, Utah, has applied, pursuant to section 4(c)(8) of the Bank Holding

Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire Murray First Thrift & Loan Co., Salt Lake City, Utah, and Capitol Thrift and Loan Co., Salt Lake City, Utah.

Applicant states that the proposed subsidiary would engage in industrial loan company and leasing activities. The proposed subsidiary would not engage in offering transaction accounts without the Board's prior approval. These activities would be performed from offices of Applicant's subsidiary in Salt Lake City, Murray, Bountiful, and Orem, Utah, and the geographic areas to be served are Salt Lake, Davis, and Utah Counties, Utah. 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).

The Commissioner of Financial Institutions for the State of Utah has requested that the Board act expeditiously on the application due to the emergency condition of Murray First Thrift & Loan Co.

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.

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 December 1, 1982.

Board of Governors of the Federal Reserve System, November 12, 1982

James McAfee,
Associate Secretary of the Board.

[FR Doc. 82-31446 Filed 11-15-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Dairy Processor Premerger Notification Reports; Request for Public Comment

AGENCY: Federal Trade Commission.

ACTION: Notice of request for comments.

SUMMARY: The purpose of this notice is to invite interested parties to submit comments on possible changes in the Commission's dairy processor premerger notification program. The Commission is considering whether to continue requiring advance notification of dairy processor mergers and, if so, whether to change the reporting form and the criteria for filing reports.

This notice is divided into three parts. Part I describes the dairy merger reporting program. Part II describes the changes to the reporting program proposed by the Federal Trade Commission staff. Part III requests responses to several questions identified by the staff as useful to the Commission in acting upon these proposed changes.

DATE: Comments must be received on or before January 17, 1983, to assure their consideration in this matter.

ADDRESS: Comments and proposals should be mailed to: Office of the Secretary, Federal Trade Commission, Room 172, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Patricia A. Bremer, Federal Trade Commission, Washington, D.C. 20580 (Telephone 202-724-1256).

SUPPLEMENTARY INFORMATION:

I. The Dairy Merger Reporting Program

Special reports on mergers and acquisitions by fluid milk processors have been required since 1974 to assist the Commission in carrying out its law enforcement responsibilities under Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. The Commission is authorized by Section 6(b) of the FTC Act to order that such special reports be filed. The Commission has required advance notification of dairy mergers that are likely to raise antitrust concerns, because of the difficulties of re-establishing viable competitors through divestiture, and because there may be harm to competition before a divestiture is achieved.

Special reports on mergers and acquisitions between fluid milk processors have been required since the Commission announced its dairy merger enforcement policy in 1973.⁽¹⁾ The enforcement policy and the reporting

program originated in response to substantial changes in the dairy processing industry in the 1950s. A larger number of acquisitions by dairy processors, together with economic and technological changes that made very small processors inefficient, resulted in relatively high concentration in the local and regional markets in which dairy processors operate. The Commission brought complaints against several large dairy companies for acquisitions of other dairy processors. The orders settling those complaints imposed bans on further acquisitions by these dairy companies without Commission approval. As those merger bans began expiring in 1972, the Commission again became concerned that mergers and acquisitions among large dairy processors would impair competition in the dairy industry. In anticipation of renewed merger activity, the Commission issued a merger enforcement policy announcing the criteria it would apply in assessing mergers in the dairy industry; the Commission also established the premerger reporting program as an aid to implementing the policy.

On October 7, 1974, the Commission issued a resolution directing certain corporations engaged in dairy processing and distribution to file special reports on proposed mergers and acquisitions. After approval of the special report form by the General Accounting Office, copies of the special report were sent to the nation's 20 largest dairy companies on February 21, 1975. The Commission most recently adopted a resolution and order directing the filing of dairy merger special reports on October 23, 1979.

The Commission continued requiring dairy merger special reports after the institution of the Hart-Scott-Rodino premerger notification program (2) in 1978 because of concern that it would not otherwise learn of mergers in this sector of the economy before their consummation. Economic studies, law enforcement investigations, and litigated cases indicate that wholesale fluid milk markets are primarily local or regional in geographic scope. In such local or regional markets, acquisitions of firms smaller than the minimum size covered by the Hart-Scott-Rodino program may pose antitrust concerns. The dairy merger reports have required information about competition in local and regional markets, whereas the Hart-Scott-Rodino reports require only nationwide sales data.

II. Proposed Changes in the Dairy Merger Reporting Program

The staff of the Federal Trade Commission has proposed changes in the dairy merger reporting program that will reduce the burden on the industry of filing these special reports. In accordance with the goals of the Paperwork Reduction Act of 1980,⁽³⁾ the Commission staff has proposed changes in the reporting requirements that should reduce the number of mergers and acquisitions that must be reported under the program. The staff has also recommended reducing the amount of information required concerning each transaction.

A. Proposed Changes in Reporting Requirements. Under the previous special report order, firms processing more than 300 million pounds of class I milk (4) annually (alone or together with the acquired company) were required to file special reports concerning any acquisition of either (1) a fluid milk processing plant, distribution facility, or route (except those serving retail home delivery exclusively) located within a 500-mile radius of an existing plant or distribution facility of the acquiring company or (2) a dairy company that in any of the three years prior to the acquisition made annual fluid milk product sales of 26 million pounds or more or a processing plant that processed 26 million pounds or more of class I milk.

The Commission staff has proposed changes in these reporting thresholds that should reduce the number of reportable transactions. From its experience with investigations, litigated cases and the dairy merger reporting program, the Commission staff found that several types of reported acquisitions were not likely to have significant anticompetitive effects. Evidence suggests that little processed fluid milk is shipped more than 125 miles from processing plants. Because there is likely to be little competition between processors whose plants are located more than 250 miles apart, the Commission staff proposes to change the reporting requirements to require special reports only of acquisitions of processing plants or distribution facilities located within 250 miles of a plant or facility of the acquiring company.

In addition, the Commission staff proposes that acquiring firms no longer be required to report either (1) the acquisition of a fluid milk products distributor if 80 percent or more of the distributor's sales were of products carrying the acquiring company's label or (2) the purchase of used equipment if

the seller remains in business. The Commission staff has observed no anticompetitive effects from such types of transactions and proposes that they no longer be reportable.

Based on economic studies and experience with prior dairy mergers, the staff believes that firms processing or selling under 50 million pounds of fluid milk products annually are likely to be neither low-cost processors nor significant competitive forces in their respective markets. Because acquisitions of such firms are unlikely, therefore, to have anticompetitive effects, the staff proposes to eliminate them from the reporting requirements.

If the Commission continues to require special reports of fluid milk processor acquisitions, some duplication of reporting with the Hart-Scott-Rodino program would occur. Certain acquisitions reportable under the dairy program would also be reportable under the Hart-Scott-Rodino rules. The Commission is considering eliminating any duplicate reporting by exempting from the dairy merger reporting program any transaction reportable under the Hart-Scott-Rodino rules.

B. Proposed Changes in Reporting Forms. Based on its experience with the dairy merger reporting program over the past eight years, the Commission staff believes that certain detailed information formerly required by the form is not essential for an initial review of proposed mergers to determine whether they merit further investigation. The previous form provided much of the information that would ultimately be produced during an investigation of a merger after the initial review had been made. The proposed new form requires only the information needed for that initial determination whether to investigate. The changes are intended to relieve dairy processors of providing data that are unnecessary to that initial review.

The special report forms include instructions, a notification form to be placed on the public record, and two reporting forms concerning the acquiring company and the company to be acquired. The Commission staff has proposed changes in both reporting forms to require only information necessary to a preliminary assessment of the proposed transaction and to reduce the burden on the reporting companies.

In Form A, item I identifies the reporting company, providing its name and address, state and date of incorporation, fiscal year, information on ownership and control, and information on subsidiaries involved in

the dairy industry. This information is necessary to identify properly the reporting company, define its status as parent or subsidiary, and confirm its legal existence. The information required in item I is unchanged from the previous form, except that item I-F now requires sales, in both pounds and dollars, only of dairy products.

Item II requires information on the reporting company's overall dairy activities. Item II-A requires its overall domestic sales, as well as sales of class I milk products, sales of other dairy products, and sales through its own retail stores. Item II-B requires total value of shipments for the last census year, 1977, and for the year preceding the acquisition, for bulk fluid milk and class I milk products. This information is necessary for the Commission to assess the reporting company's position in the dairy industry and to arrive at preliminary estimates of industry structure, industry concentration, and trends in concentration. Item II has been reduced by requiring sales data for only the year prior to the proposed acquisition, instead of for a three-year period as required by the previous form. Value of shipments would still be required for 1977 and the year before the acquisition, but only for bulk fluid milk and class I milk products. Sales data are required in both dollars and pounds; data in pounds are necessary to eliminate the effects of inflation.

Item III requires information on the reporting company's milk products business for each processing plant or distribution branch located within 250 miles of the facilities to be acquired. The information required is the location of the plant or branch, operating statements for the plant or branch, the volume of fluid milk products processed or distributed for the last three years, a map showing the area served, and a list of the reporting company's independent distributors that are located within 250 miles of the facilities to be acquired. This information is necessary for the Commission to determine the extent of competition between the acquiring and acquired companies and the geographic area in which that competition may occur.

Item III on the new form is a combination of Items III and IV on the previous form. Item III previously required processing volume data for three years and for all dairy products for all plants of the reporting company; item IV required detailed information on independent distributors, suppliers, and purchases from plants located near the facilities to be acquired. These two items have been combined into a single

item III, which requires information only for plants and branches located within 250 miles of facilities of the company to be acquired. The new form also limits the data to bulk fluid milk and class I milk products, no longer requires data on sales to each independent distributor, and does not require data on home-delivery sales. A new item III-F requires sales, in dollars and pounds, to all independent distributors purchasing from plants within the 250-mile area. The proposed changes are intended to limit the information sought to the geographic areas relating to the merger and should reduce the reporting burden of multiplant processors.

Item IV requires estimated market share data for specific urban areas located within 250 miles of the facilities to be acquired. Concentration and market share information are essential factors in analyzing possible anticompetitive effects of mergers and acquisitions. In general, the greater the market concentration, the merging firms' market shares and the disparity of firm size, the more likely an acquisition is to adversely affect competition in the relevant market.

The Commission staff has proposed deleting item V on the previous form, which required information on sales of dairy products other than class I milk products. Sales of non-fluid milk products have little effect on competition in the processing and distribution of fluid milk products, and information on non-fluid milk products is not necessary to decide whether to investigate a fluid milk processor acquisition.

Item V on the new form requires copies of studies in the possession of the acquiring company that relate to the marketing of class I milk products. Because this calls for already-prepared documents, it requires only a minimal file search. Such studies are likely to suggest the effects of the merger on competition by showing the growth areas within the fluid milk products field, the status of technology, the geographic areas in which the merging companies compete, and the market shares and competitive strength of various companies in the relevant market. Item V has been limited to studies made during the last three years.

In Form B, which requires information on the company to be acquired, item I requires the name and address of the acquired company, the date of the proposed acquisition, the consideration to be paid, and an indication whether the transaction is a stock or assets acquisition. In addition, it requires a list of the assets to be acquired, including the location of processing plants and

distribution plants and the areas served by them. This information enables the Commission to determine the extent of competition between the merging companies and the geographic area in which that competition may occur. This item requires the same information as items I and II of the previous form B.

Item II requires information on the dairy products sales and processing volume of the company to be acquired. This information was required in item III of the previous form B. The Commission staff has proposed to require sales data for only the year before the acquisition, but to require data in pounds as well as in dollars. Items II-B and II-C require value of shipments and processing volume for only bulk fluid milk and class I milk products, and not for all other dairy products, as required previously. Item III-D of the previous form, which related to products purchased from other dairies, has been eliminated. Similar information is required under item III of the new form.

Item III requires fluid milk processing volume and financial statements for each processing plant to be acquired for the three years prior to the acquisition, a map showing the area served by each plant, the location of and sales from each distribution branch, the names and locations of large independent distributors that purchased from the plant or branch, and total volume sold to independent distributors from the plant or branch. Processing volume data is limited to bulk fluid milk and class I milk products. Information on processing of non-fluid milk products and sales to individual distributors is no longer required. The information in item III is necessary to determine the competitive viability of the company to be acquired and the extent of direct competition between the companies, or their distribution branches, or their independent distributors.

Item IV requires a list of urban areas served by the Company to be acquired, its sales of class I milk products, market share and rank in each urban area, and estimates of competitors' market shares and rank in each area. This information is necessary to enable the Commission to determine the extent of competition among the merging firms and the likely effect of the merger or acquisition on competition in the relevant market.

Item V requires production of studies in the possession of the company to be acquired that relate to the marketing of class I milk products; this item requires such studies from only the last three years, instead of the last five years, as required previously.

C. Proposed Elimination of the Reporting Program. Alternatively, the

Commission is considering whether to discontinue its reporting program for dairy processor mergers and acquisitions. In recent years, the structure of the fluid milk industry has changed, due in part to the increasing influence of dairy cooperatives in fluid milk processing. Because of these changes, the number of acquisitions raising antitrust concerns seems to be decreasing. Most acquisitions warranting investigation have been reportable under the Hart-Scott-Rodino premerger notification program. The Commission staff is concerned that the benefit to competition of advance notification of those few acquisitions not reportable under Hart-Scott-Rodino may not outweigh the burden to the industry of continuing the reporting program. On the other hand, the Commission staff's experience with the dairy industry has shown that most dairy processors compete in local or regional geographic markets. In those markets, firms that are smaller than the minimum size reportable under the Hart-Scott-Rodino program may nevertheless be significant competitors. The special reports, moreover, have brought otherwise unreportable mergers to the Commission's attention, and have enabled the Commission to make an initial review with a minimum use of both its and the companies' resources. The Commission staff also believes that the proposed modifications in the special report form would considerably reduce any burden on reporting companies. The staff estimates that the revised form would take approximately eight hours to complete, on the average.

III. Invitation to Submit Proposals and Comments.

Before deciding whether to make any of the proposed changes in the dairy merger program, the Commission is providing interested parties an opportunity to submit comments on (1) whether the Commission should continue to require advance notice of dairy processor mergers and (2) whether the Commission should change the reporting form or the criteria for filing reports if it decides to continue to require advance notice. Comments should be directed to, but need not be limited to, the following issues that are related to the proposed form and criteria:

(1) Should the reporting threshold be raised to require advance notice by companies subject to the reporting program only of acquisitions of dairy processors which process or sell 50 million pounds or more of class I milk annually? Why or why not?

(2) Should the 500-mile boundary in the reporting requirements be reduced to 250 miles? Why or why not?

(3) Should the special report continue to require reporting of a purchase by a dairy processor of a company that distributes at least 80 percent of its products under the acquiring company's label? Why or why not?

(4) Should the special report continue to require reports of purchases of used equipment? Why or why not?

(5) Should the Commission exempt from the dairy merger reporting program acquisitions that are reportable under the Hart-Scott-Rodino premerger notification rules?

(6) Should the Commission continue the dairy merger reporting program? Why or why not?

(7) How much time would the proposed form require to complete? Please identify any section that requires a greater amount of time to complete than others, and explain why the section is particularly time consuming.

(8) Can the proposed form be completed on the basis of regularly maintained business records, such as computerized information, books, ledgers, and sales reports? Please identify any section that cannot be completed on the basis of regularly maintained business records and suggest how the proposed form could be changed to provide the same information on the basis of regularly maintained business records.

(9) Is the information required to be reported in pounds readily available to reporting companies in pounds? Please identify any information that is not readily available in pounds or that cannot easily be converted into pounds.

Notes

1. "Enforcement Policy With Respect to Mergers in the Dairy Industry," 38 FR 17770-71 (July 3, 1973), *reissued as amended*, 43 FR 1992-94 (Jan. 13, 1978), *amended*, 43 FR 28046-47 (June 23, 1978).

2. In 1976, the Congress enacted section 7A of the Clayton Act (the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a) to improve the effectiveness of antitrust enforcement. Pursuant to section 7A, premerger notification rules were promulgated, requiring advance notification of certain transactions. Those rules became effective in 1978.

3. Pub. L. No 96-511 section 2(a), 94 Stat. 2812 (codified at 44 U.S.C. 3501 *et seq.* (1980)). If the Commission decides to continue this reporting program, the special report forms will be subject to review by the Office of Management and Budget pursuant to the Paperwork Reduction Act. In seeking public comment at this time, the Commission is attempting to minimize the burden of the reporting program, in accordance with that Act.

4. For purposes of this reporting program, the term "class I milk products" means bottled or otherwise packaged fluid milk and related products, including whole milk, flavored whole milk, concentrated whole milk, filled milk, skim milk, fortified skim milk, low fat milk, buttermilk, flavored milk drinks, light cream, heavy cream, sour cream, half and half, other cream mixtures, yogurt, and eggnog. The term "class I milk products" includes both packaged fluid milk and related products (SIC 20262), and buttermilk, chocolate drink and other flavored milk products (SIC 20264), as defined in the *Numerical List of Manufactured Products, 1977 Census of Manufactures*, Bureau of the Census, U.S. Department of Commerce. This definition of class I milk products is to be used in filing this report regardless of definitional differences in some federal and state milk marketing orders. This definition also applies for geographic areas not covered by milk marketing orders.

By direction of the Commission.

Carol M. Thomas,
Secretary.

Proposed Revised Report Form

Special Report on Acquisitions and Mergers By Corporations in the Fluid Milk Products Industry

This report is required by law: Submission of information required in this report is mandatory under the Federal Trade Commission Act (15 U.S.C. 46). On or before the reporting date specified, complete and return one (1) notarized copy of this report to: Director, Bureau of Competition, Federal Trade Commission, Washington, D.C. 20580 (telephone (202) 523-3601).

Reporting date: The 60th day preceding consummation of any merger or acquisition.

Notice of default: Failure to file this report on or before the reporting date constitutes default and subjects the reporting company to penalties authorized by law.

Purpose of report: The purpose of this report is to notify the Federal Trade Commission of proposed acquisitions fluid milk processors and distributors and to provide the Commission with certain information deemed necessary to evaluate preliminarily the competitive effects of such acquisitions. The special report is made up of Forms A and B, a Notification form and a Certification. The Notification form is to be placed on the public record. The information on Forms A and B is confidential and is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, except as provided in the Federal Trade Commission Act or in the Commission's Rules of Practice. Instructions, Definitions, and the Certification are contained in this cover section.

Instructions for filing: This report must be filed sixty (60) days prior to the consummation of any acquisition if the acquiring company processes more than 300 million pounds of class I milk annually (excluding home delivery sales), or if when combined with an acquired company it processes that amount, and if (1) the acquired assets, stock or other share capital relate to any fluid milk processing plant or distribution facility that is within 250 miles of any such assets of the acquiring company or (2) the acquired company had fluid milk product sales totalling 50 million pounds or more or processed 50 million pounds or more of class I milk products during any one of the preceding three years (excluding retail home delivery in each case).

For the purposes of this premerger reporting program, no report is required to be filed in either of two instances: (1) If 80 percent or more of the acquired company's sales of fluid milk products in any of the three years preceding the proposed acquisition were of products carrying the label of the acquiring company or (2) if the acquisition is of used equipment and the seller of the equipment is to remain in business substantially as before the proposed purchase.

Only one Certification and Form A need be completed regardless of the number of proposed acquisitions or mergers reported at one time. A separate Form B and public record Notification form must be completed for each acquisition.

Companies involved in proposed acquisitions that must be reported in accordance with Section 7(A) the Clayton Act or the rules promulgated thereunder (the Hart-Scott-Rodino premerger notification rules) need not file this report.

All items must be answered. If an item is not applicable, so indicate with the letters "N.A." If the correct response is "none," so indicate.

Responses should be based on company books and records. If books and records are not available, estimates should be entered. Estimated data should be followed by the notation "Est."

Footnotes should be used to explain fully any answer that appears to be inconsistent with these instructions or that needs clarification as to meaning. Footnotes may be written on the appropriate form itself (if space permits) or attached on continuation sheets.

Use a continuation sheet if the space provided is inadequate for your response to any item. Each continuation sheet should identify the company

submitting the report and the items to which the answers apply. Please attach each continuation sheet securely to the appropriate form.

Additional blank forms may be reproduced or may be obtained from the Director of the Bureau of Competition.

Definitions: For purposes of this report, the following definitions apply:

Reporting Company. The term "reporting company" means the acquiring company, all dairy processing or distributing companies owned by the acquiring company or its subsidiaries or in which a majority of the outstanding voting stock or other ownership interest is controlled by the acquiring company, and all other dairy processing or distributing companies in which the acquiring company or its subsidiaries are able to formulate, determine, or veto basic business policy decisions through use of dominant minority voting rights, proxy voting, contractual arrangements, agents, or other means. Any class I milk product processing or distribution facility operated as a joint venture with, or under contract with, another company is also to be included as part of the reporting company.

Acquisition. The term "acquisition" includes both mergers and acquisitions. The term "acquisition" means obtaining control of assets (including companies or parts of companies, plants, distribution locations, receiving stations, retail stores, wholesale or warehouse facilities, delivery routes, trademarks, licenses, customer lists, and accounts receivable) used in processing or distributing class I milk products. Control of such assets may be obtained through purchase, exchange of stock, lease, contract, or other means.

Class I Milk Products. The term "class I milk products" means bottled or otherwise packaged fluid milk and related products, including whole milk, flavored whole milk, concentrated whole milk, filled milk, skim milk, fortified skim milk, low fat milk, buttermilk, flavored milk drinks, light cream, heavy cream, sour cream, half and half, other cream mixtures, yogurt, and eggnog. The term "class I milk products" includes both packaged fluid milk and related products (SIC 20262) and buttermilk, chocolate drink and other flavored milk products (SIC 20264), as defined in the *Numerical List of Manufactured Products, 1977 Census of Manufacturers*, Bureau of the Census, U.S. Department of Commerce. This definition of class I milk products is to be used in filing this report regardless of definitional differences in some federal and state milk marketing orders. This definition also applies for geographic

areas not covered by milk marketing orders.

Other Dairy Products. The term "other dairy products" means manufactured dairy products, including all types of cheese and cheese products (including cottage cheese), ice cream, ices and other frozen desserts, butter, powdered milk (including skimmed milk powder, and mixtures thereof), condensed and evaporated milk, and dairy products mixes (including ice cream, ices, and other frozen dessert mixes, and other food mixes in which dairy products or imitations thereof are the primary ingredients).

Value of Shipments. The term "value of shipments" means the net selling value f.o.b. plant (excluding discounts, allowances, and excise taxes) of all production of a product physically shipped from a manufacturing or processing establishment of the reporting company. "Value of shipments" includes the delivered value for dairy products delivered by employees of the manufacturing or processing establishments. Shipments to other establishments of the reporting company should be included at their estimated commercial value. Companies completing Bureau of the Census Survey Form MA-100 may choose to submit value of shipments data as tabulated for that purpose.

Sales. The term "sales" means all sales of merchandise. When measured in dollars, "sales" includes receipts from customers for services (including repair, maintenance, delivery and installation charges), and receipts from carrying charges or other charges for credit. Do *Not* include receipts from rents or sales of real estate, commissions from vending machines, income from investments, or state and local sales taxes collected. Do *Not* deduct trade-in allowances from sales, but *Do* deduct allowances for returned goods. Unless otherwise noted, report *domestic* sales data only.

Year. The term "year" means calendar year.

Domestic. The term "domestic" means the 50 United States and the District of Columbia.

Distribution Facility. The term "distribution facility" means any location, other than a processing plant, from which class I milk products are distributed on wholesale or home delivery routes.

Standard Metropolitan Statistical Area (SMSA). The term "Standard Metropolitan Statistical Area" means a county or group of contiguous counties that contains at least one city of 50,000 or "twin cities" with a combined population of at least 50,000.

population living in as SMSA is designated as the metropolitan population. See the current issue of *The Statistical Abstract of the United States*, U.S. Department of Commerce, Washington, D.C., for a list of SMSAs and their geographic composition as defined in terms of counties and other political subdivisions of a State or States.

Other Urban Areas. The term "other urban areas" means all other non-SMSA organized areas with over 10,000 persons. Such areas consist of a central city and a surrounding, closely settled territory with an overall population density of 1,000 persons or more per square mile.

Certification

This report was prepared under my supervision. To the best of my knowledge, the information presented is true, correct, and complete, and is provided in as much detail as is available from company records.

(Signature and title of company official) _____
(Date) _____

Subscribed and sworn to before me at the City of _____,
State of _____, this the _____ day of _____, 19____.

My commission expires _____
(Notary Public) _____

Notification Form

Notification of Intent To Acquire or Merge With Another Company

This report is required by law. Response is mandatory under the authority of the Federal Trade Commission Act (15 U.S.C. 46).

1. Name and address of reporting company:

(Name) _____
(Street address or P.O. box number) _____
(City) _____ (State) _____ (Zip code) _____

2. Name and address of acquiring company:

(Name) _____
(Street address or P.O. box number) _____
(City) _____ (State) _____ (Zip code) _____

3. Name and address of company to be acquired:

(Name) _____
(Street address or P.O. box number) _____
(City) _____ (State) _____ (Zip code) _____

4. a. Date of agreement (if any): _____

b. Date acquisition is to be consummated: _____

c. Type of acquisition: _____

5. Describe briefly the type(s) of activity or business to be acquired and give the numbers and types of establishments to be acquired.

(Signature of officer) _____

(Date) _____

FTC Form A (Acquisitions in the Fluid Milk Products Industry)

(Name of company submitting this report) _____

Identification and Market Information of the Reporting Company

I. Reporting company identification as of:

(Reporting date) _____

A. Current name of corporation: _____

B. Corporate address: _____

C. Incorporated: _____

(State) _____ (Date) _____

D. Fiscal year ends:

(Date) _____

E. 1. Does another company own, directly or indirectly, a majority of the outstanding voting stock of the company listed in Item I.A.? [] Yes [] No

2. Is another company able to formulate, determine, or veto basic policy decisions of the company listed in Item I.A. through use of dominant minority voting rights, proxy voting, contractual arrangements, agents, or other means? [] Yes [] No

If either of your answers is Yes, list the name and address of the owning or controlling company.

(Name) _____
(Street address or P.O. box number) _____
(City) _____ (State) _____ (Zip code) _____

F. State the names and addresses, products processed or sold, and last year's sales of class I milk products or other dairy products for each dairy processing or distributing company included within the reporting company.

Name and address of company	Products processed or sold	Last year's sales (in thousands of dollars)	Last year's sales (in thousands of pounds)

II. Domestic sales and value of shipments of reporting company.

A. Domestic sales for last year:

	Sales (in thousands of pounds)	Sales (in thousands of dollars)
1. Total sales by reporting company, excluding intra-company transfers.....		
2. Sales of class I milk products:		
a. To customers served from company-owned home delivery routes.....		
b. All other sales.....		

	Sales (in thousands of pounds)	Sales (in thousands of dollars)
3. Sales of all other dairy products.....		
4. Sales of all retail stores operated by the reporting company (include dairy product sales reported in 2 and 3):		
a. Sales of class I milk products processed in company operated plants.....		
b. Sales of other dairy products processed in company operated plants.....		
5. All other sales.....		

B. Value of shipments (domestic) in 1977 and last year.

SIC No.	Product name	Value of shipments (in thousands of dollars)	
		1977	Last year
20261.....	Bulk fluid milk and cream.		
20262 and 20264 (combined).	Class I milk products.		

III. Complete a separate Item III for each plant or branch of the reporting company processing or distributing class I milk products and located within 250 miles of the facilities to be acquired.

A. Plant (or branch) location:

B. Provide operating statements indicating sales, gross profit, and net profit before federal and state income taxes for each of the last three years for the processing plant or branch.

C. Report the volume of the following dairy products processed or distributed in each of the last three years (in thousands of pounds):

SIC No.	Product name	Volume processed or distributed		
		(year)	(year)	(year)
20261.....	Bulk fluid milk and cream.			
20262 and 20264 (combined).	Class I milk products.			

D. On an area map that shows county boundaries, indicate the location of the plant, the entire area it serves, and the locations of distribution branches from which the class I milk products are sold.

E. State the name and location of each independent distributor that purchased class I milk products from the reporting company during any of the past three years and the years during which such purchases were made by each independent distributor.

Name and location: _____
(city and state)

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

F. State total sales in pounds and in dollars of class I milk products and other dairy products to the independent distributors listed in Item III.E. for each of the past three years.

	(year)	(year)	(year)
Total volume sold to independent distributors (in pounds).....			
Total volume sold to independent distributors (in dollars).....			

IV. Provides the following market share and rank information for the reporting company and for competitors for last year (specify year) in each Standard Metropolitan Statistical Area (SMSA) and in each other urban area that is served by the reporting company and located within 250 miles of the facilities to be acquired.

A. _____
(Name of area)

B. Reporting Company:
Last year's sales of class I milk products in market area (in thousands of pounds) _____

Last year's sales of class I milk products in market area (in thousands of dollars) _____

Estimated market share _____

Rank _____

C. Other competitors in the market:

Name and address	Estimated market share	Rank

(For each market area, provide a separate Item IV by copying this page)

V. Provide a copy of each study, survey, report, or analysis made during the last three years that is in the possession of the reporting company that relates to the marketing of class I milk products, market shares, competition, competitors, markets, or potential for sales growth or expansion into product or geographic markets, and indicate (if not contained in the document itself) the date of preparation and the name and title or position of the person(s) who prepared each such document.

FTC Form B (Acquisitions in the Fluid Milk Products Industry)

(Name of company submitting this report)

Federal Trade Commission

Washington, D.C. 20580

* * * * *

Identification and Market Information of the Proposed Acquisition

Complete a separate Form B for each proposed domestic acquisition subject to the reporting requirements stated in the instructions for filing this report.

I. Identification of proposed acquisition:

A. State the name and address of the company to be acquired or from which operating units or specific assets are to be acquired.

(company name)

(headquarters address)

B. Date on which the acquisition will become effective: _____

C. Consideration to be paid, including cash, amount of debt to be assumed, market value of stock and other obligations exchanged: _____

D. Complete either (1) or (2) below, whichever is appropriate.

1. Assets acquisition

a. Percentage of the total assets of the company listed in Item I.A that will be acquired:

- less than 15%
- between 15% and 50%
- 50% or more but less than 90%
- between 90% and 100%

b. Current book value of assets to be acquired (in dollars): _____

2. Stock or ownership acquisition:

a. Of the outstanding stock or other ownership interest in the company to be acquired, state the percentage that is owned or controlled by the reporting company.

(prior to the proposed acquisition)

(after the proposed acquisition)

b. Book value of the assets of the company to be acquired as of the reporting date (in dollars): _____

E. List the assets to be acquired. State the location of and area served by each plant and distribution branch to be acquired.

II. Report the following domestic sales and production information:

	Sales (in thousands of pounds)	Sales (in thousands of dollars)
A. Domestic Sales of entity(ies) to be acquired for last year: (Specify year)		
1. Total, excluding intra-company		
2. Class I milk products:		
a. To customers served by company-owned home delivery routes		
b. All other class I milk products		
3. All other dairy products		
4. Retail stores operated by the company (including dairy product sales reported in 3 and 4):		
a. Sales of class I milk products processed in company operated plants		
b. Sales of other dairy products processed in company plants		
5. All other sales		

B. Value of shipments of dairy products in 1977 and last year:

SIC No.	Product name	Value of shipments (in thousands of dollars)	
		1977	Last year
		1. 20261	Bulk fluid milk and cream.
2. 20262 and 20264 (combined).	Class I milk products.		

C. Volume (in thousands of pounds) of dairy products processed for each of the last three years.

SIC No.	Product name	Volume processed		
		(year)	(year)	(year)
1. 20261	Bulk fluid milk and cream.			
2. 20262 and 20264 (combined).	Class I milk products.			

III. Provide the following information for each plant to be acquired that processes class I milk products. (For each plant, provide a separate Item III by copying these pages.)

A. Plant location:

B. Provide profit and loss statements and balance sheets applicable to the assets to be acquired for each of the last three years.

C. The volume of the following dairy products processed during each of the last three years (in thousands of pounds):

SIC No.	Product	Volume processed		
		(year)	(year)	(year)
1. 20261	Bulk fluid milk and cream.			
2. 20262 and 20264 (combined).	Class I milk products.			

D. On an area map that shows county boundaries, indicate the location of the plant, the entire area it serves and the locations of distribution branches from which the class I milk products are sold.

E. State the location of each distribution branch and the class I milk product sales for each of the past three years from that distribution branch.

Location (city and state)	Sales (in thousands of pounds)		
	(year)	(year)	(year)
1. _____			
2. _____			
3. _____			
4. _____			
5. _____			
6. _____			
7. _____			

F. Report the name and location of each independent distributor that purchased class I milk products from the company to be acquired during any of the past three years, and the years during which such purchases were made from each independent distribution.

Name and location:

(city and state)
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

G. State the total volume in pounds of class I milk products and other dairy products sold to the independent distributors listed in Item III.F for each of the past three years.

Total volume sold to independent distributors (in pounds)			
	(year)	(year)	(year)
.....			

H. Report the name and address of each company that (1) supplied to this

processing plant more than 2.5 million pounds of class I milk products last year for resale under the acquired company's labels or (2) purchased from this plant more than 2.5 million pounds of class I milk products for resale under the buyer's label. If a company both sold to and purchased from the plant, use two lines in order to report the sales and purchases separately.

Name and address of company	Were the transactions: (1) Sales to the plant (2) Purchases from the plant
1.	
2.	
3.	
4.	
5.	

IV. For Each SMSA and other urban area served by the company to be acquired, provide the following information. Estimates of market share and rank in the market should be based on volume in pounds of class I milk products sold last year.

A. _____
(name of area)

B. Company to be acquired:

Last year's sales of class I milk products in market area (in thousands of pounds) _____

Last year's sales of class I milk products in market area (in thousands of dollars) _____

Estimated market share _____

Rank _____

Name and address	Estimated market share	Rank
.....		
.....		
.....		
.....		

(For each area, provide a separate Item IV by copying this page).

V. Provide a copy of each study, survey, report, or analysis made during the last three years that is in the possession of the company to be acquired that relates to the marketing of class I milk products, market shares, competition, competitors, markets, or potential for sales growth or expansion into product or geographic markets, and indicate (if not contained in the document itself) the date of preparation and the name and title of person(s) who prepared each such document.

[FR Doc. 82-31084 Filed 11-15-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Behavioral Teratology of Alcohol Solvents; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Date: December 1, 1982

Time: 10:00 a.m. to 4:00 p.m.

Place: Robert A. Taft Laboratories, 4676 Columbia Parkway—Room B38, Cincinnati, Ohio 45226.

Purpose: To review an intramural research project to evaluate the comparative reproductive toxicity of industrial alcohols and acetates. Pregnant rats will be exposed via inhalation to selected alcohols and acetates during gestation. Standard teratological endpoints will be evaluated on the initial phase, and behavioral and biochemical indices in offspring of exposed animals will be utilized in the second phase. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Additional information may be obtained from: Mr. Benjamin K. Nelson, Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health, Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: (513) 684-8383.

Dated: November 9, 1982.

William H. Foegen,

Director, Centers for Disease Control.

[FR Doc. 82-31276 Filed 11-15-82; 8:45 am]

BILLING CODE 4160-19-M

Press Operator Hand Movement Study; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation participation, limited only by space available.

Date: November 30, 1982.

Time: 9:00 a.m. to 12:00 noon.

Place: Appalachian Laboratory for Occupational Safety and Health, Safety Annex Conference Room, S-120, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Purpose: To discuss the research protocol of a project which is to determine the safe distance between two-hand actuators and the point of operation of power presses. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Additional information may be obtained from: Mr. Timothy Pizatella, Division of

Safety Research, National Institute for Occupational Safety and Health, Centers for Disease Control, 944 Chestnut Ridge Road, Morgantown, WV 26505, Telephone: (304) 291-4454 or FTS 923-4454.

Dated: November 9, 1982.

William H. Foegen,

Director, Centers for Disease Control.

[FR Doc. 82-31277 Filed 11-15-82; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 82N-0125]

Puerto Rico Community Blood Center, Inc.; Denial of Request for Hearing and Revocation of U.S. License No. 397

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is denying a hearing and revoking the establishment and product licenses issued to Puerto Rico Community Blood Center, Inc., for the manufacture of Whole Blood (Human). The licenses are revoked because an FDA inspection of this firm from July 15 through August 17, 1981, revealed numerous deviations from applicable standards designed to ensure the well-being of blood donors and the continued safety, purity, and potency of the product. FDA concluded that the nature and extent of noncompliance with the applicable standards observed during this inspection also demonstrated a failure of responsible personnel to exercise control over the establishment's operations.

DATE: This revocation is effective November 16, 1982.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, National Center for Drugs and Biologics (HFB-620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: In the Federal Register of May 11, 1982 (47 FR 20192), FDA issued a notice of opportunity for hearing on its intent to revoke the establishment and product licenses (U.S. License No. 397) issued to Puerto Rico Community Blood Center, Inc., 1824 Fernandez Juncos Ave., Santurce, PR 00909, for the manufacture of Whole Blood (Human). The proposed revocation was based on the failure of the firm and its responsible management to conform to the applicable standards and conditions established in its license and the requirements in Parts 600, 601, 606, 610, and 640 (21 CFR Parts 600, 601, 606, 610, and 640) and failure to comply with § 600.10 (21 CFR 600.10) in that no person exercised control over the

establishment in matters relating to compliance with the biologics regulations for a significant period of time. An FDA inspection of the firm from July 15 through August 17, 1981, revealed numerous deviations from the applicable standards. On the basis of the 1981 inspection, FDA suspended U.S. establishment License No. 397 and the product license for Whole Blood (Human) issued to Puerto Rico Community Blood Center, Inc., and provided the firm with due notice of the agency's intent to revoke its license and to issue a notice of opportunity for hearing.

The May 11, 1982 notice provided for the firm to request a hearing by June 10, 1982, and to submit any data justifying a hearing by July 12, 1982. Other interested persons were given until July 12, 1982, to file written comments. The firm requested a hearing in a one sentence letter to the agency dated June 8, 1982. In a letter issued to the firm dated June 29, 1982, FDA's Office of Biologics advised the firm that a hearing is granted only on a showing of a substantial issue of fact and that, in accordance with the notice of opportunity for hearing, specific data and information justifying a hearing must be submitted by July 12, 1982, for consideration by the agency in determining whether there is a genuine and substantial issue of fact that requires a hearing. Copies of this correspondence, letters to the firm from FDA detailing the grounds for suspension and setting forth the notice and intent to revoke U.S. License No. 397, and a letter from the firm in response to the suspension are on file with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

The firm has failed to submit any data or information to justify a hearing, as required by the May 11, 1982 notice of opportunity for hearing and as restated in the June 29, 1982 letter from FDA. In addition, the agency has not received any other letters from interested persons on the matter. Nevertheless, FDA has reconsidered the grounds for revocation which included, but were not limited to, the following significant deviations found during the 1981 inspection:

1. For at least the period June 18, 1981, through July 22, 1981, no person exercised control of the establishment in all matters relating to compliance with the provisions of 21 CFR 600.10(a).

2. Records were not made of each step in the collection, processing, storage, and distribution of each unit of blood and blood components so that all steps

could be clearly traced (21 CFR 606.160(a)(1)); for example:

a. Many donor records for units collected between June 18 and July 22, 1981, lacked, among other things, medical histories, vital signs, dates of collection, and/or hemoglobin determinations (21 CFR 606.160(b)(1));

b. Processing records for units BA 56791 through BA56861 lacked results of ABO and Rh blood group tests (21 CFR 606.160(b)(2)(i));

c. Although blood components were prepared and distributed there were no records of component preparation, including relevant dates and times (21 CFR 606.160(b)(2)(i));

d. There were no records available of tests for the presence of the hepatitis B surface antigen (HBsAg) for units BA56768 through 56777 and BA56805 through 56861 (21 CFR 606.160(b)(2)(i));

e. Distribution records were incomplete or inaccurate (21 CFR 606.160(b)(3)); and

f. Computability test/distribution records often contained several different collections and/or expiration dates for the same unit (21 CFR 606.160(a)(1)).

3. Units of Whole Blood (Human) collected in anticoagulant citrate phosphate dextrose solution (CPD) were labeled with expiration dates well in excess of 21 days, some as much as 35 days; and at least one unit collected in CPD was relabeled with collection and expiration dates different from those on the original label (21 CFR 606.120(b)(5) and 610.53(a)).

Further grounds are set forth in the letters to the firm that are on file in FDA's Docket Management Branch.

Upon completion of a review of all relevant information, FDA concludes that these actions by Puerto Rico Community Blood Center, Inc., present an unreasonable hazard to the health of donors and recipients of whole blood collected at establishment. Further, these actions also demonstrate a failure of responsible personnel to exercise control over the establishment's operations. FDA is not aware of any new data or information to justify a delay in the revocation of U.S. License No. 397.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) the request for a hearing is denied, and the establishment and product licenses (U.S. License No. 397) issued to Puerto Rico community Blood Center, Inc., are hereby revoked.

This notice is issued under 21 CFR 601.8.

Dated: November 5, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 82-31132 Filed 11-15-82; 8:45 am]

BILLING CODE 4160-01-M

Request for Nominations for a Representative of Industry Interests on a Public Advisory Panel

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for an industry representative to serve on the Ear, Nose, and Throat Device Section of the Ophthalmic, Ear, Nose, and Throat; and Dental Devices Panel of the National Center for Devices and Radiological Health. FDA has a special interest in ensuring that women, minority groups, the physically handicapped, and small businesses are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates, and nominations from small businesses that manufacture medical devices subject to the regulations.

DATE: Nominations should be received by January 30, 1983.

ADDRESS: All nominations and curricula vitae must be submitted in writing to Kay A. Levin, National Center for Devices and Radiological Health (HFK-50), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Kay A. Levin, National Center for Devices and Radiological Health (HFK-50), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7172.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for a member representing industry interests for the Ear, Nose, and Throat Device Section of the Ophthalmic, Ear, Nose, and Throat; and Dental Devices Panel.

The functions of the medical devices section are to: (1) Review and evaluate available data concerning the safety and effectiveness of devices currently in use, (2) advise the Commissioner of Food and Drugs regarding recommended classification of these devices into one of three regulatory categories, (3) recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category, (4) advise on any possible risks to health associated with the use of

devices, (5) advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category, (6) review classification of devices to recommend changes in classification as appropriate, (7) recommend exemption to certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act (the act), (8) advise on the necessity to ban a device; and (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Industry Representation

Section 513 of the act (21 U.S.C. 360c) provides that each medical device panel include as a member one representative of interests of the device manufacturing industry. Each section will also have a representative of industry interests. This representative will be a nonvoting member.

Nomination Procedure

Any organization in the medical device manufacturing industry ("industry interests") wishing to participate in the selection of an appropriate member of a particular committee, panel, or section may nominate one or more qualified persons to represent industry interests. Persons who nominate themselves as industrial representatives will be considered but will not participate in the selection process. Therefore, it is recommended that all nominations be made by an organization or firm. Nominations shall include a complete curriculum vitae of each nominee and shall state that the nominee is aware of the nomination and is willing to serve as a member. The term of office is 3 years.

Selection Procedure

A letter will be sent to each organization or firm that has made a nomination, and to those organizations or firms indicating an interest in participating in the selection process, together with a complete list of all such organizations, firms, and nominees. This letter will state that it is the responsibility of each nominator to consult with the others in selecting a single member representing industry interests for the section to present to FDA within 60 days after receipt of the letter.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 [5 U.S.C. App. I]) and 21 CFR Part 14, relating to advisory committees.

Dated: November 8, 1982.

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

[FR Doc. 82-31290 Filed 11-15-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82P-0348]

Tomato Juice Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Hunt-Wesson Foods, Inc., to market test tomato juice from concentrate. The product will not be seasoned with the optional ingredient salt and the statement "No salt added" will appear on the principal display panel of the label. The purpose of this temporary permit is to permit the applicant to measure consumer acceptance of the food.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than February 14, 1983. However, the permit may terminate sooner, depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the *Federal Register* of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after the negative ruling on the proposal.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In accordance with § 130.17 (21 CFR 130.17) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to Hunt-Wesson Foods, Inc.

The permit covers limited interstate marketing tests of tomato juice that deviates from the standard of identity prescribed for tomato juice under 21 CFR 156.145. The product is prepared from tomato paste that complies with the requirements of § 155.191(a)(1) (21 CFR 155.191(a)(1)). The finished product contains not less than 5.5 percent

tomato soluble solids and a maximum sodium content of 15 milligrams per 6-ounce serving. The permit provides for the temporary marketing of 105,000 cases of 12 46-ounce cans of the product to be distributed in all 50 of the United States.

The test product is to be packed at one or more of the Hunt-Wesson Foods, Inc., plants located in Davis, CA 95616, Oakdale, CA 95361, and Perrysburg, OH 43551-0450.

The principal display panel of the label states the product's name as "tomato juice from concentrate." Each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101, except that the tomato ingredient complying with the requirements of § 155.191(a)(1) is declared as "tomato concentrate." In order to adequately notify consumers of the taste difference from salted tomato juice from concentrate, the statement "No salt added" is printed on the principal display panel. The sodium content is declared in accordance with 21 CFR 105.69. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than February 14, 1983. However, the permit may terminate sooner, depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the *Federal Register* of May 9, 1978. If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after the negative ruling on the proposal.

Dated: November 8, 1982.

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

[FR Doc. 82-31289 Filed 11-15-82; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

President's Committee on Mental Retardation; Meeting

PROGRAM: Quarterly Full Committee Meeting

TIMES AND DATES: December 1, 1982 from 9:00 am to 5:00 pm; December 2, 1982 from 9:00 am to 5:00 pm; December 3, 1982 from 9:00 to 3:30 pm.

PLACE: December 1, Executive Office Building, Washington, D.C. from 9:00 am to 12:00 pm. Site visits from 1:00 pm to 5:00 pm, December 2, 3, the L'Enfant Plaza Hotel, Washington, D.C.

STATUS: The December 1 portion of the meeting will be closed to the public. The December 2 and 3 portions of the meeting are open to the public, advance registration is not necessary. An interpreter for the deaf will be available upon advance requests. All locations are barrier free.

MATTERS TO BE CONSIDERED: Portions Open to the Public:

1. Discussions with Administration Officials on issues concerning mental retardation and PCMR goals and objectives. (Day 2)
2. Panel discussions on critical issues as seen by private sector voluntary organization. (Day 2)
3. PCMR Work Group Sessions: Full Citizenship, Family and Community Services, Prevention, Public Information and Education, and Systems Simplification and Coordination. (Day 2)
4. Resolutions, Recommendations, and Plans for 1983. (Day 3)

Portions Closed to the Public:

1. Swearing-In Ceremony for Mr. Vincent Gray, twenty first member of the Committee. (Day 1)
2. Comments and Discussions by Secretary Richard Schweiker. (Day 1)
3. Site visits to selected regional programs. (Day 1)

CONTACT PERSON FOR MORE

INFORMATION: Dr. George N. Bouthilet, ROB No. 3, Room 4025, 7th and D Streets, S.W., Washington, D.C. 20201, (202) 245-7634.

Dated: November 1, 1982.

Fred J. Krause,
Executive Director.

[FR Doc. 82-31333 Filed 11-15-82; 8:45 am]
BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Uintah Indian Irrigation Project, Utah; Annual Operation and Maintenance Charges

November 2, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: General notice; correction.

SUMMARY: This document corrects a General Notice published in the Federal Register on Friday, February 19, 1982, (47 FR 7504). This action corrects a typographical error and adds a phrase in Part 1, Basic Water Charges.

1. *Basic Water Charges.* Pursuant to the provisions of the Acts of June 21, 1906 (34 Stat. 375), and March 7, 1928 (45 Stat. 210, 25 U.S.C. 385), the reimbursable costs expended in the operation and maintenance of the

Uintah Indian Irrigation Project, Utah are apportioned on a per acre basis against the irrigable lands of all units of the project. For the calendar year 1982 and each succeeding year unless changed by further general notice, there shall be collected for each acre of irrigable land to which water can be delivered from the constructed works, a uniform basic charge of \$8.50 per acre per annum. This shall entitle the land for which payment is made to receive a duty of water in accordance with § 171.6(d) of Part 171, Subchapter H, 25 CFR, where not otherwise established by contract. No bill shall be rendered for less than \$10.00.

FOR FURTHER INFORMATION CONTACT:

Thomas Neumann, Bureau of Indian Affairs, Phoenix Area Office, Phoenix, Arizona 85011, telephone number (FTS 261-2285; COM-602-241-2285).

Kenneth Smith,
Assistant Secretary, Indian Affairs.

[FR Doc. 82-31345 Filed 11-15-82; 8:45 am]
BILLING CODE 4310-02-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Texaco U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0310, Blocks 212 and 221, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 7002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd. Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information

contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal regulations.

November 8, 1982.

John L. Rankin,
Acting Minerals Manager Gulf of Mexico OCS Region.

[FR Doc. 82-31344 Filed 11-15-82; 8:45 am]
BILLING CODE 4310-31-M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 5, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by December 1, 1982.

Carol D. Shull,
Chief of Registration, National Register.

CONNECTICUT

Litchfield County

New Milford, *Halpine, J. S., Tobacco Warehouse, West and Mill Sts.*

New Haven County

Ansonia, *Upper Main Street Historic District, 36-100, 85-117 Main St.*

LOUISIANA

LaSalle Parish

Jena vicinity, *White Sulphur Springs, SW of Jena on LA 8*

MARYLAND

Allegany County

Frostburg, *Hocking House, 144 E. Main St. Baltimore (Independent City), Brown, Alex, Building, 135 E. Baltimore St.*

Baltimore (Independent City), *Garrett Building, 233-239 Redwood St.*

Baltimore (Independent City), *Lord Baltimore Hotel, 20 West St.*

Frederick County

Frederick, *Motter, John C., House, 1005 Motter Ave.*

Harford County

Bel Air vicinity, *Tudor Hall*, NE of Bel Air on Tudor Lane (Boundary decrease)

MICHIGAN**Wayne County**

Detroit, *Eastside Historic Cemetery District*, Bounded by Elmwood and Mt. Elliott Aves., Lafayette and Waterloo Sts.

Detroit, *Sacred Heart Seminary*, 2701 W. Chicago Blvd.

Detroit, *St. Bonaventure Monastery*, 1740 Mt. Elliott Ave.

Detroit, *St. Josaphat's Roman Catholic Church Complex*, 715 E. Canfield Ave.

Detroit, *Virginia Park Historic District*, Both sides of Virginia Park from Woodward Ave. to John Lodge Service Dr.

MISSISSIPPI**Noxubee County**

Macon, *Yates-Flora House*, 100 N. Wayne St. Shuqualak, *Flora House*, Line St.

MONTANA**Park County**

Livingston vicinity, *Sixty-Three Ranch*

NORTH CAROLINA**Alexander County**

Hiddenite, *Lucas Mansion*, Church St.

Bertie County

Republican vicinity, *King-Freeman-Speight House*, W of Republican on NC 308

Dare County

Manteo, *Meekins, Theodore S., House*, 319 Sir Walter Raleigh St.

Surry County

Oak Grove vicinity, *Haystack Farm*, S of Oak Grove on SR 1480

OHIO**Columbiana County**

Salem, *Salem China Company*, 1000 S. Broadway

Cuyahoga County

Cleveland, *Cleveland Home for Aged Colored People (Black History TR)*, 4807 Cedar Ave.

Cleveland, *House of Wills (Black History TR)*, 2491 E. 55th St.

Cleveland, *Karamu House (Black History TR)*, 2355 E. 89th St.

Cleveland, *Morgan, Garrett, House (Black History TR)*, 5202 Harlem Ave.

Cleveland, *Shiloh Baptist Church (Black History TR)*, 5500 Scovill Ave.

Cleveland, *St. John's AME Church (Black History TR)*, 2261 E. 40th St.

Delaware County

Delaware, *Sandusky Street Historic District*, 44 S. to 92 N. Sandusky, 46 E. to 31 W. Winter, and 9 E. to 17 W. William

Franklin County

Columbus, *Great Southern Hotel and Theatre*, S. High and E. Main Sts.

Columbus, *Schlee-Kemmler Building*, 328 S. High St.

Hamilton County

Cincinnati, *Krumberg, Theodore, Building*, 1201 Main St.

Miami County

Piqua, *African Jackson Cemetery*, N of Piqua on Zimmerlin Rd.

Montgomery County

Dayton, *Commercial Building*, 44 S. Ludlow St.

Muskingum County

Adamsville vicinity, *St. Matthews Protestant Episcopal Church*

Zanesville, *St. John's Lutheran Church*, Market and N. 7th Sts.

Noble County

Harrietsville, *St. Henry Roman Catholic Church and Rectory*, 36573 County Rd. 47

Stark County

Wilmot vicinity, *Serquet, Emanuel and Frederick, Farm*, N of Wilmot at 14091 Stoneford

TENNESSEE**Knox County**

Knoxville, *Old Knoxville City Hall (Tennessee School for the Deaf)*, Summit Hill Dr.

TEXAS**Hale County**

Plainview, *Plainview Commercial Historic District*, Roughly bounded by E. 4th, Austin, E. 9th, and Ash Sts. (both sides)

WISCONSIN**Dane County**

Madison, *University Heights Historic District*, Roughly bounded by Regent, Allen, Lathrop Sts., and Kendall Ave., (both sides)

Outagamie County

Appleton, *College Avenue Historic District*, 215 W. to 109 E., and 110 W. to 102 E. College Ave.; 106-114 N. Onida St.

WYOMING**Park County**

Mammoth Hot Springs vicinity, *Lamar Buffalo Ranch (Yellowstone National Park MRA)*, E of Mammoth Hot Springs on Northeast Entrance Rd.

[FR Doc. 82-31190 Filed 11-15-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION**Handling of Insurance Filings**

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: Maintenance of the Commission's Carrier Security and Process Agents Records System has been contracted to Equipment

Interchange Association, 4660 Kenmore Avenue, Suite 420, Alexandria, Virginia 22304. Effective November 8, 1982, all current insurance records filed in accordance with 49 U.S.C. 10927 and 49 CFR Part 1043 will be transferred to Equipment Interchange Association. Public inquiries concerning insurance coverage for a specific motor carrier, freight forwarder, or broker, or concerning their designated agent to accept service of process should be made to 703-823-5986 or 823-0927 or in writing to the above address.

Certificates of insurance, broker bonds, notices of security cancellation and designation of agent filings should continue to be submitted to the Insurance Branch, Interstate Commerce Commission, Washington, D.C. 20423.

This notice supersedes a prior notice under the title published at 47 FR 43799 October 4, 1982.

FOR FURTHER INFORMATION CONTACT: Edward C. Fernandez, 202-275-7591.

EFFECTIVE DATE: November 8, 1982.

DATED: November 4, 1982.

By the Commission. Reese H. Taylor, Jr. Chairman.

Agatha L. Mergenovich, Secretary.

[FR Doc. 82-31241 Filed 11-15-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral

hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: November 9, 1982.

By the Commission, Heber P. Hardy,
Director, Office of Proceedings.

Agatha L. Mergenovich,
Secretary.

MC-F-14980, filed October 19, 1982.
GRAND ISLAND CONTRACT CARRIERS, INC. (Grand Island) (P.O. Box 2078, Grand Island, NE 68801)—Purchase (Portion) ECKLEY TRUCKING, INC., (Eckley) (P.O. Box 156, Mead, NE 68041). Grand Island seeks to purchase Eckleys' Certificate No. MC-5227 (Sub-No. 68) which authorizes the transportation of pumps, accessories and parts for pumps, and materials and supplies used in the manufacture of pumps radially between points in Sandus Caub, NE, and points in the U.S. (except HI) and that portion of Certificate No. MC-5227 (Sub-No. 78) which authorizes the transportation of metal products and rubber and plastic products between points in NE, on the one hand, and points in the U.S. Grand Island is wholly-owned by Chief Industries, Inc., which joined in this application. Grand Island operates under authority contained in No. MC-129808. Representatives: Jack Shultz, P.O. Box 82028, Lincoln, NE 68501; A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Condition: Virgil Eihusen owns 41.7 percent of the stock of Chief Industries, Inc., and is president and a director of that company. As such, he has the power to control the company and must join in as a party seeking to control the involved operating rights through the transaction. Although Mr. Eihusen signed the application on behalf of Chief Industries, Inc., as its president, he has not signed in his own right as controlling party. Therefore, as a condition to our approval, he must do so.

Note.—A TA application has been filed.
MC-F-14981, filed October 20, 1982.
ACTION DELIVERY, INC. (Delivery) (1201 Cantrell-Sansom, Fort Worth, TX 76131)—purchase—ACTION DELIVERY SERVICE, INC. (Service) (2401 Marshall Drive, Grand Prairie, TX 75051). Representative: Ralph W. Pulley, Jr., 5944 Luther Lane, Dallas, TX 75225, for transferee. William Brackett, 623 South Henderson Street, Fort Worth, TX 76104, for transferor. Delivery seeks authority to purchase the interstate operating rights of Service. Colonial Refrigerated Transportation, Inc., the sole stockholder of Delivery, seeks authority to acquire control of said rights transaction. Delivery is purchasing the interstate operating rights held by Service in Certificate Nos. MC-141865 (Sub-No. 7F), authorizing the transportation of agricultural chemicals, in containers, from the facilities of

Sellers Chemical Co., at Haraham, LA, to points in CA, CO, GA, IA, MI, NJ, TX, and WA, and MC-141865 (Sub-No. 11) authorizing the transportation of such commodities as are dealt in or used by home products distributors of Amway Corporation, at Des Moines, IA, on the one hand, and, on the other, points in the U.S., and in Permits Nos. MC-141865 (Sub-No. 1) authorizing the transportation of such merchandise as is dealt in by home products distributors from the warehouse and storage facilities of Amway Corp., located at or near Arlington, TX, to points in AR, CO, KS, LA, MO, NM, and OK, under continuing contract, or contracts, with Amway Corp., of Ada, MI.; MC-141865 (Sub-No. 3) authorizing the transportation of such commodities as are dealt by home products distributors, from the facilities of Amway Corporation, located at Arlington, TX, to points in IA, MT, NE, ND, SD, and WY, under continuing contract or contracts with Amway Corporation; MC-141865 (Sub-No. 4F) authorizing the transportation of glassware and glass containers, and enclosures for glassware and glass containers (1) from the facilities of Bartlett-Collins Company at or near Sapulpa, OK, to points in TX, KS, AR, MO, LA, IN, and CO under continuing contract(s) with Bartlett-Collins Company; of Sapulpa, OK; (2) from the facilities of Ball Corporation at or near Okmulgee, OK to points in AR, LA, and TX under continuing contract(s) with Ball Corporation; of Muncie, IN; (3) from the facilities of Midland Glass Company, Inc., at or near Henryetta, OK, to points in TX, IN, IL, and IA under continuing contract(s) with Midland Glass Company, Inc.; of Cliffwood, NJ, and (4) from the facilities of Kerr Glass Company at or near Sand Springs, OK, to points in KS, LA, and TX under continuing contract(s) with Kerr Glass Company, of Sand Springs, OK; MC-141865 (Sub-No. 5F) authorizing the transportation of such commodities as are dealt in by home products distributors, from the facilities of Amway Corp., at Des Moines, IA to points in KS and MO, under continuing contract(s) with Amway Corp. MC-141865 (Sub-No. 6F) authorizing the transportation of starch, fabric softeners, cleaning compounds, syrup, soybean, flour, juice other than frozen, soy sauce, and washing compounds, from the facilities of A. E. Staley Mfg. Company, at or near Arlington, TX, to Memphis, TN, and New Orleans, LA, under continuing contract(s) with A. E. Staley Mfg. Company, of Arlington, TX; MC-141865 (Sub-No. 8F) authorizing the

transportation of *food and food products*, (except in bulk), between points in the United States, under continuing contract(s) with Heinz USA, a Division of H. J. Heinz Company, of Pittsburgh, PA; MC-141865 (Sub-No. 9) authorizing the transportation of *general commodities*, (except classes A and B explosives), between points in the United States, under continuing contract(s) with Champion International Corporation, of Hamilton, OH, MC-141865 (Sub-No. 10) authorizing the transportation of *pulp, paper, and related products*, between points in the United States, under continuing contract(s) with Manville Forest Products Corporation, of West Monroe, LA; and MC-141865 (Sub-No. 12) authorizing the transportation of *such commodities* as are dealt in by manufacturers and distributors of paint, chemicals and related articles, between points in the United States, under continuing contract(s) with Sherwin-Williams Co., of Garland, TX. Delivery holds no authority from the Commission. Colonial Refrigerated Transportation, Inc., which owns and controls Delivery, holds authority to operate pursuant to Certificates issued in MC-115841 and sub-numbers thereunder.

Note.—An application for TA has been filed.

[FR Doc. 82-31244 Filed 11-15-82; 8:45 am]

BILLING CODE 7035-01-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-80133. By decision of November 2, 1982 issued under 49 U.S.C. 10926 and the transfer rules at CFR 1132, Review Board Number 3 approved the transfer to DANA ROBERTS, JR. d.b.a. ACME TRANSFER & STORAGE of Vallejo, CA, of Certificate No. MC-113623 (Sub-No. 3) issued June 1, 1971 to WILLIAM W. EDMOND & WELSEY C. HAYHURST d.b.a. ACME TRANSFER & STORAGE of Vallejo, CA, authorizing the transportation, of *used household goods* between points in Solano, Napa, Sonoma, Contra Costa, Alameda, Lake, Marin, Sacramento, San Francisco, San Mateo, San Joaquin, and Yolo Counties, CA, restricted (a) to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and (b) to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization or such traffic. Representative: Dana Roberts, 163 Yolano Dr., Vallejo, CA 94589.

MC-FC-80132. By decision of October 27, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to John Terminal Warehouse, Inc. of Shawano, WI, of Permit No. MC-133720 (Sub-No. 2) issued August 6, 1971, to Shawano Terminal Warehouse, Inc. of Shawano, WI, authorizing transportation as a motor contract

carrier in interstate or foreign commerce, over *irregular routes* transporting *Uncrated caskets, casket shells, and related supplies*, from Shawano, WI to points in Alger, Baraga, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee, and Ontonagon Counties, MI, under continuing contracts with Batesville Casket Company, Inc. and Belmont Casket Manufacturing Company of Columbus, OH. Representative is: Robert S. Lee, 1600 TCF Tower, 121 South Eighth Street, Minneapolis, MN 55402.

MC-FC-80115. By decision of November 1, 1982, issued under 49 U.S.C. 10926 and the transfer rules at CFR Part 1132, Review Board Number 3 approved the transfer to KINDON INC., of Salt Lake City, UT, of Certificate No. MC-153280 (Sub-No. 1), issued to ROYAL FOODS, INC., also of Salt Lake City, UT, which authorizes the transportation of *food and related products*, between points in UT, NV, CA, and ID. Representative: Kathryn Schuler Denholm, 660 S. 200 E. #100, Salt Lake City, UT 84111.

Note.—Transferee is not a carrier.

MC-FC-80112. By decision of October 29, 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 Don Fraser & Sons of Cascade, MT of Permit No. MC-140647 Sub-Nos. 3 and 5 issued to Charles J. Vaughn of Havre, MT authorizing over irregular routes the transportation of (1) plastic containers, (2) articles dealt in by wholesale grocers, from the facilities of Gregg's Food Products, at or near Portland, OR, to points in MN, MT, ND, and SD, under continuing contract(s) with Gregg's Food Products, Inc., Portland, OR, and fibreboard or pulpboard boxes, from the facilities of International Paper Co., at Minneapolis, MN, to points in MT, ND, SD, WY, UT, ID, WA, and OR, under continuing contract(s) with International Paper Co., Minneapolis, MN. TA lease is not sought. Transferee is not a carrier. Representative: Charles E. Johnson, P.O. Box 2056, Bismark, ND 58502.

MC-FC-80114. By decision of October 26, 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 James R. Gilliland, d/b/a Action Wrecker Service, Wichita, KS, of Certificate No. MC-143449 (Sub-No. 3) issued November 4, 1981, to Red Ball Wrecker and Towing, Inc., of Wichita, KS, authorizing the transportation of *wrecked and disabled or repossessed vehicles and trailers and replacement*

vehicles and trailers for such wrecked or disabled vehicles, in wrecker service only, between points in KS, on the one hand, and, on the other, points in AL, AZ, AR, CO, GA, IL, IA, LA, MS, MO, NE, NM, OK, TN, TX, and UT, restricted against trailers designed to be drawn by passenger automobiles, mobile homes, buildings in sections traveling on their own or removable undercarriages, unless they are wrecked. Transferee is not a carrier. TA is sought.

Representative: Brad T. Murphree, 814 Century Plaza Bldg., Wichita, KS 67202.

MC-FC-80097. By decision of October 29, 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 James A. Gorman & Margaret Arthur dba Irish Refrigerated Service of Shelton, WA of Permit No. MC-152380 issued May 27, 1982 to Cical T. McLain, dba C.T.M. Refrigerated Service, of Shelton, WA, authorizing the transportation of food and related products, between points in the U.S., under continuing contract(s) with Superior Packing Company, of Ellensburg, WA, and Reser's Fine Foods, Inc., of Beanerton, OH. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055.

Note.—TA lease is not sought. Transferee is not a carrier.

MC-FC-80145. By decision of November 1, 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 Crumpler Cartage Company, Inc., of Certificate of Registration No. MC-58216 (Sub-No. 1) issued to McGary Transfer, Inc. generally authorizing the regular route transportation of general commodities, from Petersburg to Springfield and Peoria, IL serving specified intermediate and off-route points. Representative: Edward D. McNamara, Jr. and Leslieann G. Maxey, Attorneys, 907 South Fourth Street, Springfield, IL 62703.

MC-FC-80099. By decision of October 26, 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 Southeastern Michigan Brokerage Company of Imlay, MI of Certificate No. MC-117672 and MC-117672 (Sub-No. 4) issued July 6, 1972 and April 24, 1980, to Frank L. Crenshaw, Inc. of Louisville, KY respectively, authorizing the transportation of (1) bananas, (a) from New Orleans, LA, Mobile, AL, and Tampa, FL to Louisville, KY, (b) from New Orleans, LA to Canton, OH, (c) from Gulfport, MS to Louisville, KY, and (2) agricultural commodities, in mixed loads with the commodities in (1) above,

from Gulfport, MS to Louisville, KY. Transferee holds authority in MC-156820 and Sub-No. 1, No TA filed. Representative is: James T. Darby, 1021 Irving Avenue, Colonial Beach, VA 22443.

MC-FC-80120. By decision of November 2, 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 DeSimone Brothers Horse Transportation, Inc., of Monticello, NY, of Certificates No. MC-1814 and 1814 (Sub-No. 1) issued, respectively, August 24, 1987, and October 22, 1981, to Horseman's Shipping Corp., of Monticello, NY, authorizing the transportation of livestock (other than ordinary livestock) and personal effect of attendants, and supplies and equipment used in the care and/or exhibition of animals between points in NH, MA, RI, CT, NY, NJ, PA, DE, MD, VA, WV, and DC, and horses between points in Sullivan County, NY, and points in NC, SC, GA, and FL. Representative is: David Appel, Box 204, Rock Hill, NY 12701, 914-796-3150.

MC-FC-80121. By decision of October 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer of Still Transfer Company, Inc., of Kingsport, TN, Certificate No. MC-64240 issued March 2, 1982 to Eugene Randolph Still Jr., d.b.a. Mountain Empire Movers, of Kingsport, TN, authorizing the transportation of household goods between points in Harlan and Letcher Counties, KY and Dickenson, Lee, and Wise Counties, VA, on the one hand, and, on the other, points in ML. Representative: Melba S. Gillian, 632 Boone St., Kingsport, TN 37660.

MC-FC-80130. By decision of October 28, 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 Rushway, Inc., of Newcastle, CA, of Permit No. MC-159081 issued May 25, 1982, to Jim Dobbas, Inc., d.b.a. Rushway, of New Castle, CA, authorizing (1) metal products, machinery, transportation equipment, those commodities which because of their size or weight require the use of special handling or equipment, and related contractors' materials and supplies, and (2) metal products, between points in the U.S., under continuing contract(s) with Gates and Fox Company, Inc., of Loomis, CA in (1) above; and Kennametal, Inc., Nevada Division, of Fallon, NV in (2) above. Representative: Armand Karp, Practitioner, 743 San Simeon Drive,

Concor, CA 94518. TA leave is not sought. Transferee is not a carrier.

MC-FC-80131. By decision of October 29, 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 John Springer, d.b.a. American Machinery Mart, of Madison, CA, of Permit Nom MC-139305 issued May 20, 1975, and MC-139305 (Sub-No. 2) issued March 21, 1977, to Lonny Raye Cummings, d.b.a. American Machinery Mart, of Madison, CA, authorizing (1) conveyor equipment and conveyor components, between Chico, CA, and Elwood City, PA, from Chico, CA, to points in OR, NV, WA, ID, CO, UT, AZ, NM, TX, LA, and MO, and (2) conveyor equipment and conveyor components, between Chico, CA, and Danville, KY, under continuing contract, or contracts, in (1) and (2) above with Rexnord, Inc., of Chico, CA. Representative: Armand Karp, Practitioner, 743 San Simeon Drive, Concord, CA 94518. Phone (415) 825-1774. TA lease is not sought. Transferee is not a carrier.

MC-FC-80138. By decision of November 2, 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 Teske Trucking, of Cokato, MN, of Permit Nos. MC-147291 (Sub-Nos. 1, 5, and 6) issued respectively, July 21, 1980, June 25, 1980, and January 9, 1981, to OCCO Transport, Inc., of Cokato, MN, authorizing the transportation of (A) (1) hoisting, lifting, towing and material tie-down systems or assemblies, (2) parts, materials, supplies, and equipment used in the manufacture and distribution of the commodities named in (1) (except commodities in bulk); and (3) contractors' tools, equipment, and supplies, new (except commodities in bulk) between Beulah, ND, and Cokato and Minneapolis, MN, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Olsen Chain and Cable Company, Inc., of Minneapolis, MN; (B) iron and steel wire rope and empty wood reels between St. Joseph, MO, on the one hand, and, on the other, Cokato, Minneapolis, and Pine River, MN, and Beulah, ND, under continuing contract(s) with Wire Rope Corporation of America, Inc., of St. Joseph, MO; and (C) iron and steel wire rope and empty wood reels between points in the United States under continuing contract(s) with Wire Rope Corporation of America, Inc., of St. Joseph, MO; and of Certificate No. MC-148950 (Sub-No. 1) F, issued May 27, 1981, authorizing the transportation of

cotton waste materials, fabric pads or padding, pillows and pillow forms, and furniture from Cokato, MN, to points in IA, IL, ND, SD, and WI. The notification in GT-599-80 is neither a Certificate nor a Permit and is not transferable.

Transportation of Government Traffic, 131 M.C.C. 845, 863 (1979).

Representative is: Mrs. Mary Lou Teske, 35 W. Lakeview Drive, Cokato, MN 55321, (612) 286-2811.

MC-FC-80140. By decision of November 2, 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 GATEWAY AIRFREIGHT SERVICE, INC., of Blaine, WA, of Certificates Nos. MC-148758 (Sub-Nos. 2F and 4), issued to C. F. LIEBERT, INC., doing business as Gateway Airfreight, of Blaine, WA, authorizing, in the Sub-No. 2F Certificate, the transportation of shipments weighting 100 points or less, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the United States; and in the Sub-No. 4 Certificate, the transportation of general commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between ports of entry on the international boundary line between the United States and Canada in Washington, on the one hand, and on the other, points in Pierce, King, Snohomesh, Skagit, and Whatcom Counties, WA. Representative is: Jim Pitzer, 15 South Grady Way, Suite 321, Tenton, WA 98055.

Notes.—Transferee holds no authority from this Commission. An application for TA has not been filed.

MC-FC-80160. By decision of November 3, 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 B & S Motor Freight, Inc., of Sand Springs, OK, of Permit No. MC-146616 and Sub-No. 3, 4, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19, issued January 23, August 15, October 7, September 17, August 26, November 26, November 19, October 22, and November 7, 1980, January 28, June 10, June 25, and July 16, 1981, April 28, and April 28, 1982, respectively, to B & H Motor Freight, Inc., of Tulsa, OK, authorizing the transportation of *general commodities* (with exceptions) and specified commodities, including, but not limited to, *iron and steel articles, machinery, and oilfield production equipment, etc.*, between specified points (some limited to facilities) in the U.S., under contracts with named shippers, and Certificate No. MC-

146616, Sub. No. 20, issued May 6, 1982 to B & H Motor Freight, Inc., of Tulsa, OK, authorizing (1) *metal products*; (2) *building materials*; (3) *machinery*; and (4) *chemicals and related products*, between points in Oklahoma, on the one hand, and, on the other, points in the United States (except AK and HI). Representative: Fred Rahal, Jr., Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Phone (918) 583-9000. TA lease sought. Transferee is not a carrier.

MC-FC-79708. By decision of October 26, 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 Dumont Trucking, Inc., of Oak Hill, OH, that portion of Certificate No. MC-73937 as reinstated September 1, 1982 to Mountain State Transport, Inc. (formerly Hogan Storage & Transfer Co.) of Huntington, WV, authorizing the transportation by regular routes of *general commodities* (with the usual exceptions) (1) moving in the primary custody of and on bills of lading of a railway express company, between Williamson, WV, and McVeigh, KY, serving all intermediate points and off-route points of Handy and Aflex, KY from Williamson over U.S. Highway 119 to junction Kentucky Hwy 199, thence over Kentucky Hwy 199 to McVeigh, and returning over the same route; (2) between Huntington, WV, and Williamson, WV, serving all intermediate points, and the off-route points of Beauty, Warfield and Inez, KY, and those in WV and KY within 17 miles of Williamson, WV, from Huntington over U.S. Highway 52 to Williamson, and returning over the same route. Representative is: A. Charles Tell, Baker S. Hostler, 100 E. Broad St., Columbus, OH 43215.

[FR Doc. 82-31245 Filed 11-15-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the *Federal Register* on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the *Federal Register* issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes

and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those

where service is for a named shipper "under contract".

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-283

Decided: November 4, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 164473, filed October 29, 1982. Applicant: DALE DOLL, Rt. 7, Box 4, Joplin, MO 64801. Representative: Dale Doll (same address as applicant), 417-781-1456. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 164492, filed November 1, 1982. Applicant: WHIPPET, INC., P.O. Box 242, Kieler, WI 53812. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705-0086, (608) 238-3119. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and KI).

MC 164513, filed November 1, 1982. Applicant: LOGISTICAL TRANSPORTATION COMPANY, INC., P.O. Box 40001, Jacksonville FL 32203-0001. Representative: Marion Graham, Jr., 1824 Lindsey Rd., Jacksonville, FL 32205, 904-786-5644. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *shipments weighing 100 pounds or less* if transported in motor vehicle in which no one package exceeds 100 pounds, (3) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, and (4) As a *broker of general commodities* (except household goods), between points in the U.S. (except HI).

Volume No. OP2-285

Decided: November 8, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 164553, filed November 2, 1982. Applicant: RANDALL TRIVELY, d.b.a. RTC LTD., 4117 Bartman Dr., Omaha, NE 68147. Representative: Randall Trively, 40 Vineyard Hills Dr., Council Bluffs, IA 51501, 712-323-8799. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural*

limestone and fertilizers, and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 3 at 202-275-5223.

Volume No. OP3-18

Decided: November 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 164425, filed October 26, 1982. Applicant: U.S. EXPRESS, INC., P.O. Box 822, Dalton, GA 30720. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840-8565. Transporting (a) *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in Whitfield and Murray Counties, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (b) for or on behalf of the United States *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), (c) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), (2) as a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164444, filed October 28, 1982. Applicant: MAX GRUENHUT INTERNATIONAL, INC., a Texas corporation, 1 Greenway Plaza East, Suite 402, Houston, TX 77046. Representative: Howard Feldman, 1211 Connecticut Ave., NW., Washington, D.C. 20036, (202) 331-0770. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP3-20

Decided: November 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 98614 (Sub-15), filed November 11, 1982. Applicant: ARKANSAS TRANSPORT COMPANY, INC., P.O. Box 702, Little Rock, AR 72203. Representative: Roland M. Lowell, Fifth Floor, 501 Union Street, Nashville, TN 37219, (615) 255-0540. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 164544, filed November 3, 1982. Applicant: WILLIAM M. KNOX, JR.,

d.b.a. SELECT TRANSPORTATION SERVICES, 4042 Lucky Lane, Greenwood, IN 46142. Representative: William M. Knox Jr. (same address as applicant), (317) 881-8398. As a *broker of general commodities* (except household goods), between points in the U.S.

Agatha L. Morgenovitch, Secretary.

[FR Doc. 82-31246 Filed 11-15-82; 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. Sepcial Rule 251 was published in the *Federal Register* of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the *Federal Register* issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed)

appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-282

Decided: November 4, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 73533 (Sub-29), filed November 1, 1982. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301-840-8565. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between the District of Columbia, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 116063 (Sub-171), filed November 1, 1982. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., P.O. Box 270, 2929 West 5th St., Fort Worth, TX 76101. Representative: W. H. Cole (same address as applicant), 817-335-4821. Transporting *commodities in bulk*, between points in NJ, on the one hand, and, on the other, points in IN, KY, and OH.

MC 123872 (Sub-133), filed October 20, 1982. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28603. Representative: Timothy C. Miller, Suite 301, 1307 Dolly Madison Blvd., McLean, VA 22101, (703) 893-4924. 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 133703 (Sub-12), filed November 2, 1982. Applicant: WCS, INC., 770 North Springdale Rd., P.O. Box 337, Waukesha, WI 53186. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705-0086, 608-238-3119. Transporting *food and related products*, between Chicago, IL, and points in Dane County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155242 (Sub-1), filed November 1, 1982. Applicant: ADVANCE POOL DISTRIBUTION, INC., P.O. Box 72, Madison Heights, MI 48071. Representative: Alex J. Miller, 555 South Woodward Ave., Suite 512, Birmingham, MI 48011, (313) 647-3350. Transporting *such commodities* as are dealt in by retail stores, between points in Kent County, MI, on the one hand, and, on the other, points in MI.

MC 162593 (Sub-1), filed October 29, 1982. Applicant: TODD'S CARTAGE CO., INC., 3128 Massillon Rd., Akron, OH 44312. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K Street NW., Washington, DC 20005, (202) 783-3525. 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 a continuing contract(s) with Ohio Freight Forwarders, Inc., of Akron, OH.

MC 164192, filed October 29, 1982. Applicant: AMENT TRUCKING CO., Box 182, R.D. No. 3, Dallas, PA 18612. Representative: Raymond Talipiski, 121 S. Main St., Taylor, PA 18517, (717) 344-8030. Transporting (1) *Charcoal and charcoal lighter fluid, pet supplies, coal and coal products, and ice melting compounds*, between points in Luzerne County, PA, on the one hand, and, on the other, those points on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundary of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada, and points in MO, CA, and TX, and (2) *building and construction materials*, between those points in the U.S. in and east of IA, MN, KS, MO, AR, LA, and TX.

MC 164213, filed October 14, 1982. Applicant: CAROLINA FARMS TRANSPORT, INC., P.O. Box 175, Allendale Hwy., Barnwell, SC 29812. Representative: S. Jahue Moore, 1700 Sunset Blvd., P.O. Drawer 175, West Columbia, SC 29171, (803) 796-9160. (1) Transporting *building materials*, between points in the U.S., (except AK

and HI), under continuing contract(s) with Collum Lumber Co., of Allendale, SC, and (2) transporting *low level nuclear waste and raw materials*, between points in Barnwell County, SC, and Middlesex County, MA, under continuing contract(s) with Carolina Metals, Inc., of Barnwell, SC.

MC 164463, filed October 28, 1982. Applicant: MICHAEL KASHNICKI, d.b.a. RAINBO ENTERPRISES, 127 Wells St., Forty Fort, PA 18704. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, 717-233-5731. 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 Specialty Foods Corp., of Johnson City, NY.

MC 164472, filed October 29, 1982. Applicant: TRAILBLAZER TRUCK & CRANE, INC., P.O. Box 544, Woodward, OK 73802. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424-3301. Transporting *oil field commodities*, (1) between points in OK and TX, and (2) between points in OK and TX, on the one hand, and, on the other, points in CO, KS, LA, MT, ND, NM, SD, and WY.

MC 164493, filed November 1, 1982. Applicant: STEPHEN FRITZ, 15121 Brockton Lane, Dayton, MN 55327. Representative: Robert M. Pearson, 12817 Main St., Rogers, MN 55374, 612-428-2297. Transporting (1) *lumber and wood products*, between points in the U.S., under continuing contract(s) with Viking Pallet, of Osseo, MN, and (2) *machinery and metal products*, between points in the U.S., under continuing contract(s) with Viking Engineering, of Fridley, MN.

MC 164502 (Sub-1), filed November 2, 1982. Applicant: COMET MOTOR LINES, INC., 11015 Barr Rd., Cleveland, OH 44141. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228-1541. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between Cleveland, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164522, filed November 2, 1982. Applicant: F. & F. TRANSPORT, INC., 1419 South Clark Blvd., Jeffersonville, IN 47130. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317-846-6655. 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).

Volume No. OP2-284

Decided: November 8, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 147492 (Sub-12), filed October 22, 1982. Applicant: MEL MOTOR EXPRESS, INC., P.O. Box 29058, New Orleans, LA 70189. Representative: Sandra H. Roberson (same address as applicant), 504-246-8221. Transporting *paper, paper products, plastic, woodpulp, boxes, components, composites, and containers*, between points in the U.S. (except AK and HI), under continuing contract(s) with Malnove, Inc., of Jacksonville, FL.

MC 162773, filed November 4, 1982. Applicant: SALIDA TRANSFER COMPANY, P.O. Box 447, Salida, CO 81201. Representative: David E. Driggers, 1600 Lincoln Center, 1600 Lincoln St., Denver, CO 80264, 303-861-4028. Transporting *general commodities in bulk*, between points in CO and NM.

MC 163503, filed November 1, 1982. Applicant: NATIONAL FREIGHT SYSTEM, INC., 2305 Oak Lane, Suite 115, Grand Prairie, TX 75051. Representative: Stephen W. Mitchell (same as applicant), (214) 642-6402. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, OK, LA, TN and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 4 at 202-275-7669.

Volume No. OP4-031

Decided: November 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 30837 (Sub-503), filed October 29, 1982. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4314-39th Ave., Kenosha, WI 53142. Representative: Paul F. Sullivan, 3408 Wisconsin Ave., NW., Washington, D.C. 20016, (202) 363-1848. Transporting *motor vehicles*, between points in the U.S., under continuing contract(s) with persons who are engaged in business as manufacturers, distributors, or dealers of motor vehicles.

MC 59367 (Sub-149), filed October 29, 1982. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, IA 50501. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282-3525. 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 67866 (Sub-44), filed November 1, 1982. Applicant: FILM TRANSIT, INC., 3931 Homewood Rd., Memphis, TN 38118. Representative: Warren A. Goff, 109 Madison Ave., Memphis, TN 38103, (901) 526-2900. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Butler, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott, and Stoddard Counties, MO; Bay, Jackson, Washington, Holmes, Walton, Okaloosa, Santa Rosa, and Escambia Counties, FL; Bowie, Cass, Dallas, Fannin, Grayson, Harrison, Lamar, Marion, Red River, and Tarrant Counties, TX, those points in KY on and east of Interstate Hwy 75, those points in OK on and east of a line beginning at the OK-TX State line and extending along U.S. Hwy 77 to junction U.S. Hwy 81, then north along U.S. Hwy 81 to the OK-KS State line, and points in LA, AR, MS, AL, and TN.

MC 146846 (Sub-5), filed November 2, 1982. Applicant: LOUIS LANE, INC., 1025 S. 3rd Ave., Wausau, WI 54401. Representative: Nancy J. Johnson, 103 E. Washington St., Box 218, Crandon, WI 54520, (715) 478-3341. Transporting *pulp, paper and related products*, (1) between points in Marinette and Wood Counties, WI, on the one hand, and, on the other, points in CA, AZ and UT, and (2) between points in Crow Wing and Carlton Counties, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147577 (Sub-3), filed November 1, 1982. Applicant: THRIFT TRANSFER, INC., 4650 Eisenhower Ave., Alexandria, VA 22304. Representative: Richard A. Ward, 1600 Wilson Blvd., Suite 1301, Arlington, VA 22209, (703) 522-0900. Transporting *pulp, paper and related products*, between points in Hanover County, VA, on the one hand, and, on the other, points in CT, GA, KY, OH and TN.

MC 148376 (Sub-4), filed October 29, 1982. Applicant: BILCO TRANSPORTATION, INC., 660 Riverside Rd., Watsonville, CA 95076. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986-8696. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with East Bay Packing Co., Inc., of Oakland, CA.

MC 150756 (Sub-8), filed November 1, 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 *general commodities* (except classes A

and B explosives, household goods and commodities in bulk), between points in AZ, CA, CO, NV, OR, UT, and WA.

MC 151476 (Sub-1), filed November 1, 1982. Applicant: CHARLES E. REED, P.O. Box 547, Franklin, TN 37064. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, (501) 521-8121. 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 Charles McAlpin Brokerage Company, of Decatur, AL.

MC 154667 (Sub-14), filed November 1, 1982. Applicant: B.I. TRANSPORTATION, INC., P.O. Box 691, Burlington, NC 27215. Representative: J. Franklin Fricks, Jr. (Same address as applicant), (919) 228-2239. 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 Volvo White Truck Corporation, of Greensboro, NC.

MC 160896 (Sub-1), filed November 1, 1982. Applicant: NICHOLAS TRANSPORT, INC., 5551 N. 330 E., Marion, IN 46952. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 635-5853. Transporting *metal products, electrodes, and electrostatic precipitators*, between points in Delaware and Grant Counties, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161356 (Sub-1), filed October 29, 1982. Applicant: DES-LAN TRUCKING, INC., 67911 State Rd. 23, N. Liberty, IN 46544. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240 (317) 635-5853. Transporting (1) *building materials*, between points in Marshall and Noble Counties, IN; Northumberland County, PA, and Morgan County, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *rubber and plastic products*, between points in La Porte County, IN; Baltimore County, MD; and Spartanburg County, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164486, filed October 29, 1982. Applicant: DEL-MAR CONSTRUCTION COMPANY, P.O. Box 248, Milford, UT 84751. Representative: Irene Warr, 311 S State St., Suite 280, Salt Lake City, UT 84111 (801) 531-1300. Transporting *Mercer commodities*, between points in Beaver County, UT, on the one hand, and, on the other, points in UT, NV, CA, OR, ID, AZ, NM, TX and OK.

MC 164487, filed October 29, 1982.
 Applicant: JAMES R. HUSBANDS, d.b.a. JAMES R. HUSBANDS CO., P.O. Box 222, Sweet Home, OR 97386.
 Representative: Lawrence V. Smart, Jr., 419 NW. 23rd Ave., Portland, OR 97210 (503) 226-3755. 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 Superior Transportation Systems, Inc., of Wilsonville, OR.

MC 164497, filed November 1, 1982.
 Applicant: M & P TRANSPORTATION CO., INC., 6227 S. 117th St., Seattle, WA 98178. Representative: George LaBissoniere 15 S. Grady Way, Suite 239 Renton, WA 98055 (206) 228-3807. Transporting *food and related products*, between points in AZ, CA, CO, ID, MT, NV, NM, OK, OR, TX, UT, WA, and WY.

MC 164516, filed October 29, 1982.
 Applicant: HAROLD G. PLUNK TRUCKING CO., INC., P.O. Box 296, Hephzibah, GA 30815. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 102 Park Ridge, IL 60068 (312) 698-2237. Transporting *food and related products*, (1) between points in Sheboygan County, WI, on the one hand, and, on the other, points in FL, GA, NC, and SC, and (2) between Charleston, SC, on the one hand, and, on the other, points in IL, MN, and WI.
 Agatha L. Mergenovich,
 Secretary.

[FR Doc. 82-31247 Filed 11-15-82; 8:45 am]
 BILLING CODE 7035-01-M

[Finance Docket No. 30057]

Rail Carriers: Providence and Worcester Railroad Co.—Control—Moshassuck Valley Railroad Co. and Warwick Railway Co.; Notice of Exemption

November 4, 1982.

Providence and Worcester Rail Systems, Inc. (P&W Systems), and its wholly owned subsidiaries, Providence and Worcester Railroad Company (P&W RR), Warwick Railway Company (Warwick) and Moshassuck Valley Railroad Company (Moshassuck) jointly filed a notice of exemption of the proposed sale of all of the stock of Warwick and Moshassuck from P&W RR. Simultaneously both Moshassuck and Warwick will be liquidated into P&W RR and their assets will become assets of P&W RR. P&W Systems will continue to control P&W RR by virtue of its ownership of all of the P&W RR capital stock.

This is a transaction within a corporate family and will not result in adverse changes in service levels, significant operational changes or a change in the competitive balance with carriers outside the corporate family. Therefore, the proposed transaction is the type specifically exempted from the necessity for prior review and approval (49 CFR 1180.2(d)(3)). As a condition to use of the exemption any employee of the P&W RR, Moshassuck and Warwick affected by this transaction shall be protected pursuant to *New York Dock Ry-Control-Brooklyn Eastern Dist.*, 360 L.C.C. 60 (1979). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

By the Commission, Heber P. Hardy,
 Director, Office of Proceedings.
 Agatha L. Mergenovich,
 Secretary.

[FR Doc. 82-31242 Filed 11-15-82; 8:45 am]
 BILLING CODE 7035-01-M

[Decision No. 38909]

Rail Carriers; Riverside Transportation, Inc.; Petition for Relief From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: In response to a petition filed by Riverside Transportation Company, Inc., the Commission has decided provisionally to exempt Riverside from tariff filing requirements in 49 U.S.C. 10702, 10761, and 10762.

DATES: Comments are due on December 1, 1982. The relief will become effective on December 16, 1982, unless, in response to adverse comments filed, the Commission issues a further decision withdrawing this relief.

ADDRESSES: Send an original and, if possible, 15 copies of comments to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278 or Tom Smerdon (202) 275-7277.

SUPPLEMENTARY INFORMATION:

On September 21, 1982, Riverside Transportation Company, Inc., requested relief from the requirements of 49 U.S.C. 10761.

Petitioner transports (1) general commodities (except classes A & B explosives, commodities in bulk, and household goods) under a continuing contract with United Forwarding, Inc., of Omaha, NE, and (2) air cleaners, replacement filters, mufflers and other component parts of engines and

compressors under a continuing contract with Donaldson, Company, Inc., of Minneapolis, MN between points in the continental United States. The Commission granted this operating authority in No. MC 157657 (Sub-No. 1).

Section 10702(b) of the Interstate Commerce Act requires contract carriers to file with the Commission actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff on file with the Commission, and section 10762 sets forth general tariff requirements including contract carrier authority to file only minimum rates. Each of these sections authorizes the Commission to grant relief to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101. Although petitioner seeks relief only from the requirements of section 10761(a), exemption from all three provisions appears to be more appropriate. We have considered the petition accordingly.

Riverside requests the exemption in order to be competitive with existing common carriers operating in the same territory by effectuating numerous rate changes rapidly. It asserts the need for flexibility to change its rates quickly to react to changing market conditions and enhance its innovative potential.

Without the exemption, Riverside would have to wait 30 days before amending its rates. By then, it contends, market conditions may have changed further making its rate change inappropriate. Riverside argues that the tariff filing requirement imposes an undue expense of time and money, which, to some extent, is passed on to the public.

We find the exemption is warranted. The carrier and shippers will realize savings from the tariff filing exemption. It appears that the requirement that Riverside file schedules is not in the public interest, and that relief will promote the transportation policies of 49 U.S.C. 10101. We are unable to conclude, however, that a similar exemption is justified for future contracts and services. Because the scope and terms of future contracts are necessarily unknown, an exemption as to future contracts can only be based on general findings, applicable to all motor contract carriers, about the continued utility of any contract filing requirement. A proceeding to investigate this issue on an industry-wide basis will shortly be instituted in Ex Parte No. MC 165. Under these circumstances, we do not provisionally find that operations to be conducted under future contracts would be in the public interest or would

promote the transportation policies of 49 U.S.C. 10101.

With the exception noted above, we provisionally grant the sought exemption. If we receive timely filed adverse comments, we will issue a further decision addressing them and deciding whether this provisional approval ought to be modified.

This action does not significantly affect either the quality of the human environment or the conservation of energy resources. However, comments may be filed on these issues.

(49 U.S.C. 10702(b), 10761(b), and 10762(f).)

Decided: November 8, 1982.

By the Commission, Division, 1, Commissioners Sterrett, Simmons, and Gradison. Commissioner Sterrett was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-31243 Filed 11-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Seventh Revised I.C.C. Order No. 80 Under Service Order No. 1344]

Rail Carriers; Rerouting Traffic; St. Louis Southwestern Railway Co. et al.

Service Date: November 10, 1982.

To: St. Louis Southwestern Railway Company; Cadillac & Lake City Railway Company; Chicago and North Western Transportation Company; Iowa Railroad Company; South Central Arkansas Railway; North Central Oklahoma Railway Inc., and Oklahoma, Kansas and Texas Railroad Company.

In the opinion of J. Warren McFarland, Agent, the Chicago, Rock Island and Pacific Railroad Company is unable to transport promptly traffic offered for movement via its lines, because of an embargo of its lines.

Rerouting authority previously granted in Sixth Revised Reroute Order No. 80, is extended for those carriers which have indicated that tariff modifications in progress cannot be completed by the expiration of that order. This matter is considered to be outside the scope of a single railroad as provided by Ex Parte No. 376, and therefore requires this action by the Commission.

It is ordered:

(a) *Rerouting traffic.* The Chicago, Rock Island and Pacific Railroad Company (RI), being unable to transport promptly traffic offered for movement via its lines because of an embargo and abandonment of its lines, that line's operators named below are authorized to reroute such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible

the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

St. Louis Southwestern Railway Company.
Cadillac & Lake City Railway Company.
Chicago and North Western Transportation Company.
Iowa Railroad Company.
South Central Arkansas Railway Inc.
North Central Oklahoma Railway Inc.
Oklahoma, Kansas and Texas Railroad Company.

(b) Concurrence of receiving roads to be obtained. The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be rerouted, before rerouting.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted and shall furnish to such shipper the new routing provided for under this order, except when the disability requiring the rerouting occurs after the movement has begun.

(d) Inasmuch as the rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., November 1, 1982.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 31, 1983, unless otherwise modified, amended or vacated.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall

be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 27, 1982.

Interstate Commerce Commission.

J. Warren McFarland,

Agent.

[FR Doc. 82-31240 Filed 11-15-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-13,054]

Amstar Corp., Spreckels Sugar Division, Factor No. 1, Spreckels, Calif.; Affirmative Determination Regarding Application for Reconsideration

By an application dated September 17, 1982, the union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of the former workers of Amstar Corporation's Factory No. 1 in Spreckels, California. The determination was published in the *Federal Register* on August 27, 1982 (47 FR 37979).

The application for reconsideration claims, among other things, that the Trade Act of 1974 was misinterpreted. It is also claimed that the percent of sugar imports is greater now than in the previous period when workers at Factory #1 were certified. The union also claims that the Department did not consider all the facts since the circumstances concerning Factory #1 are virtually identical to what they were in 1978 when the workers were certified for trade adjustment assistance.

Conclusion

After review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 29th day of October 1982.

Robert O. Deslongchamps,
Acting Deputy Administrator, Unemployment Insurance Service.

[FR Doc. 82-31312 Filed 11-15-82; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the

Department of labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period November 1, 1982–November 5, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-13,272; *Dentsply International, Inc., Caguas, PR*

TA-W-13,273; *Dentsply, Inc., Caguas, PR*

TA-W-13,337; *Star Watch Case Co., Ludington, MI*

TA-W-13,332; *Crown Zellerbach, Lincoln, WA*

TA-W-13,398; *General Electric Co., Battery Business Dept., Gainesville, FL*

TA-W-13,365; *Lanthier Foundry & Machine Co., Oxford, MI*

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-13,348; *Milwaukee Spring Co., Div., of Illinois Coil Spring Co., Milwaukee, WI*

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-13,353; *Albany International Corp., Appleton Wire Div., Appleton, WI*

Aggregate U.S. imports of fourdrinier wire are negligible.

TA-W-13,346; *Haarmann Steel Corp., Chicopee, MA*

Aggregate U.S. imports of structural steel did not increase as required for certification.

TA-W-13,349; *North Berwick Mills, North Berwick, ME*

Aggregate U.S. imports of finished fabric and knit fabric did not increase as required for certification.

TA-W-13,205; *Bayly Manufacturing Co., Yakima, WA*

Aggregate U.S. imports of jeans did not increase as required for certification.

TA-W-13,194; *Triple S. Dynamics-Breckenridge, Inc., Breckenridge, TX*

Aggregate U.S. imports of gravity tables are negligible. Imports of conveyors are negligible. Specialized equipment accounts for a relatively small percentage of total production. Any import influence could not have contributed importantly to overall employment declines at the firm.

Affirmative Determinations

TA-W-13,379; *Manner Handbag Co., Lodi, NJ*

A certification was issued in response to a petition received on March 29, 1982 covering all workers separated on or after March 26, 1981.

TA-W-13,159; *AM Cable TV Industries, Inc., Lebanon, PA*

A certification was issued in response to a petition received on December 22, 1981 covering all workers separated on or after August 1, 1981.

TA-W-13,151; *Firestone Tire & Rubber Co., Des Moines, IA*

A certification was issued in response to a petition received on December 14, 1981 covering all workers producing tractor tires separated on or after December 1, 1981.

TA-W-13,182; *Charleston Garment Co. (A plant facility of Bobbie Brooks, Div., Bobbie Brooks, Inc., Nitro, WV)*

A certification was issued in response to a petition received on January 12, 1982 covering all workers separated on or after December 18, 1980 and before April 15, 1982.

TA-W-13,193; *Revere Screw & Rivet Co., Wheeling, IL*

A certification was issued in response to a petition received on January 1, 1982 covering all workers separated on or after May 30, 1981 and before December 31, 1982.

TA-W-13,130; *IMCo Services, Inc., Clipper Plant, Battle Mt., NE*

A certification was issued in response to a petition received on December 4, 1981 covering all workers separated on or after December 1, 1981.

I hereby certify that the aforementioned determinations were

issued during the period November 1, 1982–November 5, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 9, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-31310 Filed 11-15-82; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 26, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to

the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 26, 1982.

The petitions filed in this case are available for inspection at the Office of

the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 8th day of November 1982.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner (Union/workers or former workers of)	Location	Date received	Date of petition	Petition number	Articles produced
American Motors Corp., American Center Facility (company)	Southfield, MI	Nov. 1, 1982	Oct. 27, 1982	TA-W-13,912	Headquarters office.
American Motors Corp., Amtek Facility (co.)	Detroit, MI	do	do	TA-W-13,913	Technical facility (office).
Amherst Coal Co., 4-H Mine (workers)	Accoville, W. Va.	Nov. 2, 1982	Nov. 29, 1982	TA-W-13,914	Coal mining.
ASARCO, Inc. (USWA)	E. Helena, Montana	Oct. 29, 1982	Oct. 19, 1982	TA-W-13,915	Lead processing.
Blue Ridge Shoe Co. (workers)	Robersonville, NC	Oct. 28, 1982	Oct. 22, 1982	TA-W-13,916	Shoes, work—men's boots, waterproof, men's. Dye and finish knitted cloth.
Bridgeton Dyeing & Finishing Co. (ACTWU)	Bridgeton, NJ	Nov. 1, 1982	Oct. 27, 1982	TA-W-13,917	Machines—bottling and labeling equipment, packaging.
Figgie International, Meyer-World Div. (USWA)	W. Boylston, MA	Oct. 29, 1982	Oct. 22, 1982	TA-W-13,918	Machines—thread rolling and thread dies. Ciaranets and flutes.
Prutton Machine (wks & Co.)	Cleveland, Ohio	Nov. 3, 1982	Oct. 21, 1982	TA-W-13,919	Warehouse.
Selmer Company (UAW)	Elkhart, IN. (No. Main)	Oct. 28, 1982	Oct. 25, 1982	TA-W-13,920	Jackets, suit and blazers, women.
Selmer Company (UAW)	Elkhart, IN. (Industrial Parkway)	do	do	TA-W-13,921	Dyes and chemicals.
Universal Coat Co. (workers)	Bay Shore, NY	Nov. 2, 1982	Oct. 20, 1982	TA-W-13,922	Wear—children's and women's.
American Color & Chemical Corp., Lock Haven Plant (OCAWU)	Lock Haven, Pa.	do	Oct. 28, 1982	TA-W-13,923	Shoes, boots, sandals—men's, ladies'. Copper—refine.
Hollis Manufacturing Co., Inc. (company)	Wrightsville, Pa.	Oct. 29, 1982	Oct. 21, 1982	TA-W-13,924	Coal mining.
Livermore Shoe (Maine Woods) (workers)	Livermore Falls, ME	Oct. 28, 1982	Oct. 17, 1982	TA-W-13,925	Coal mining.
Phelps Dodge Refinery Corp., Electrolytic Dept. (workers)	El Paso, Texas	Nov. 2, 1982	Oct. 22, 1982	TA-W-13,926	Coal cleaning.
Price River Coal Co., No. 3 Mine (UMWA)	Helper, Utah	Nov. 1, 1982	Oct. 26, 1982	TA-W-13,927	Coal cleaning.
Price River Coal Co., No. 5 Mine (UMWA)	Helper, Utah	do	do	TA-W-13,928	Coal cleaning.
Price River Coal Co., Preparation Plant (UMWA)	Helper, Utah	do	do	TA-W-13,929	Coal cleaning.
U.S. Steel Mining Co., Inc., Coal Prep Plant (UMWA)	Wollington, Utah	do	do	TA-W-13,930	Coal mining.
U.S. Steel Mining Co., Inc., Geneva Mine, Western Div. (UMWA)	E. Carbon City, UT	do	do	TA-W-13,931	Coal mining.

[FR Doc. 82-31311 Filed 11-15-82; 8:45 am]

BILLING CODE 4510-30-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

- The Agency of the Department issuing this form.

- The title of the form.
- The Agency form number, if applicable.
- How often the form must be filled out.
- Who will be required to or asked to report.
- Whether small business or organizations are affected.
- The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.
- An estimate of the number of responses.
- An estimate of the total number of hours needed to fill out the form.
- The number of forms in the request for approval.
- An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Department Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB

reviewer, Norman Frumkin, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

(Burden Change.)
Employment Standards Administration.

- Medical Report Forms: CA-16, CA-17, CA-20, CA-20a, CA-28, CA-1090, CA-1302, CA-1303, CA-1304, CA-1306, CA-1308, CA-1316, CA-1331, OWCP-5.

Annually

Businesses or other institutions, small business or organization, SIC: 801. 608,500 responses; 151,708 hours, 14 forms.

The information obtained through the use of the forms in this clearance is necessary to determine whether or not a Federal employee who has filed claim under the Federal Employees' Compensation Act (FECA) (8101 et seq.) is entitled to compensation under the FECA.

Signed at Washington, D.C. this 11th day of November 1982.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 82-31308 Filed 11-15-82; 8:45 am]

BILLING CODE 4510-27-M

[Secretary of Labor's Order 6-82]

Delegation of Authority; Assignment of Responsibilities Under the Veterans' Rehabilitation and Education Amendments of 1980 (Pub. L. 96-466); Disabled Veterans' Outreach Program

November 8, 1982.

1. **Purpose.** To delegate authority and assign responsibilities for carrying out functions and authority vested in the Secretary of Labor pursuant to the Veterans' Rehabilitation and Education Amendments of 1980 (Pub. L. 96-466), related legislation, and Executive Orders.

2. **Background.** The Veterans' Rehabilitation and Education Amendments of 1980 and the Veterans' Compensation, Education and Employment Amendments of 1982 (Pub. L. 97-306) provide for an outreach program designed to meet the employment needs of veterans, especially disabled veterans of the Vietnam era. The Act further provides that the Secretary of Labor shall administer the Disabled Veterans' Outreach Program (DVOP) through the Assistant Secretary of Labor for Veterans' Employment (ASVE), as established by the Act. Heretofore, DVOP had been administered by the Assistant Secretary of Labor for Employment and Training.

3. **Delegation of Authority and Assignment of Responsibilities.** a. *The Assistant Secretary of Labor for Veterans' Employment* is responsible for coordinating, monitoring, and ensuring that the functions of the Secretary of Labor under the Veterans' Rehabilitation and Education Amendments of 1980 (Pub. L. 96-466) with respect to the *Disabled Veterans' Outreach Program* are implemented. Such responsibilities include but are not limited to the following:

(1) Developing and promulgating the Secretary of Labor's regulations required to implement the Act.

(2) Developing and promulgating performance standards related to the conduct of the Outreach program.

(3) Providing for effective administration of the DVOP through technical assistance and training, monitoring performance, and establishing a system of program and financial directives and reporting.

(4) Developing and carrying out a program of outreach and employment assistance to provide eligible veterans the maximum employment and job training opportunities.

(5) Developing budget documents as necessary to support the DVOP at the required levels.

(6) Entering into grants and/or contracts. This authority may be redelegated to the Regional Directors for Veterans' Employment.

b. *The Assistant Secretary for Employment and Training (ETA)* is responsible for making available, through agreement or memorandum of understanding, the existing ETA financial and reporting systems whereby the DVOP may be efficiently and effectively operated and administered.

c. *The Solicitor of Labor* is responsible for providing legal advice and assistance to all officials of the Department who have responsibilities under this Order.

4. **Resources.** The Department shall allot to the Assistant Secretary for Veterans' Employment funds appropriated by Congress for the administration of the DVOP. The Office of the Assistant Secretary for Administration and Management (OASAM) shall continue to support the OASVE in all matters regarding budget, financial management and other administrative activities. Recording of DVOP obligations and expenditures will be in accordance with procedures prescribed by OASAM under the accounting policy authority vested in that office.

5. **Reservation of Authority.** The preparation of reports to the President and the Congress, including appropriate recommendations, with respect to administration of the Disabled Veterans' Outreach Program, and particularly Department of Labor responsibilities is reserved for the Secretary.

6. Secretary's Order 5-81 remains in effect except where inconsistent with this Order.

7. **Effective Date.** This Order is effective retroactive to October 1, 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82-31309 Filed 11-15-82; 8:45 am]

BILLING CODE 4510-23-M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Change in Public Meeting Date

New Date: Thursday, December 9, 1982.
Place: Russell Senate Office Building, Room 235, Constitution Avenue and First Street, N.E., Washington, D.C. 20510.

Time: 9:00 a.m.

Purpose: The Motor Carrier Act of 1980, Public Law 96-296, as amended by the Bus Regulatory Reform Act of 1982, directs the Motor Carrier Rate-making Study Commission (Study Commission) to make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers of property and of the need or lack of need for continued antitrust immunity thereof. The Study Commission is specifically directed to estimate the impact of the elimination of such immunity upon the rate levels and rate structures and to describe the impact of such on the Interstate Commerce Commission and its staff. Also, the Study Commission has been directed to give special consideration to the impact of the elimination of such immunity upon rural areas and small communities. The Study Commission shall, not later than January 1, 1983, submit to the President and the Congress its final report including its findings and recommendations.

The purpose of this meeting is to provide the opportunity for the Study Commission to discuss and consider the draft report, findings, and recommendations; to direct issuance of the final document with its findings and recommendations to the Congress and President; and to consider other business as appropriate.

For further information, contact: Name: J. Kent Jarrell, Title: General Counsel, Phone No.: (202) 724-9600.

Submitted this, the 10th day of November, 1982.

Larry F. Darby,

Executive Director.

[FR Doc. 82-31251 Filed 11-15-82; 8:45 am]

BILLING CODE 6820-BD-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-255-OLA]

Consumers Power Co. (Palisades Nuclear Power Facility); Order of Dismissal

November 8, 1982.

Procedural History

On July 23, 1979 the Licensing Board issued a Special Prehearing Conference Order in this matter which admitted Great Lakes Energy Alliance (hereinafter "GLEA") as a party to this proceeding. GLEA designated Mary P. Sinclair of Midland, Michigan as its representative.

On June 23, 1982 this Board issued an order requiring each party to the proceeding to file a statement on or before July 12, 1982 concerning the status of this proceeding. Licensee and NRC Staff filed such statements; GLEA did not respond to the order.

On August 9, 1982 the Board issued an order scheduling a prehearing

conference to be held on September 21, 1982 in St. Joseph, Michigan. This order was published in the *Federal Register* on August 13, 1982. 47 FR 35382 (August 13, 1982). Both the order of June 23, 1982 and the order of August 9, 1982 were served upon GLEA representative Mary P. Sinclair.

On September 21, 1982, a prehearing conference was convened in this matter at St. Joseph, Michigan. Licensee and NRC Staff attended and were represented. GLEA did not attend the prehearing conference and was not represented. Mary P. Sinclair did not attend the prehearing conference and was not represented. This Board received no notice that neither GLEA nor Mary P. Sinclair would attend the prehearing conference.

Thereafter, on September 23, 1982 the Board issued an Order to GLEA to Show Cause why it should not be dismissed as a party for its default in failing to attend the prehearing conference of September 21, 1982. That Order was served on GLEA's representative Mary P. Sinclair by Certified Mail on September 27, 1982. Neither GLEA nor anyone on its behalf filed any response to the Order to Show Cause.

Applicable Law

The NRC Rules of Procedure provide in pertinent part as follows:

On failure of a party * * * to appear at a hearing or prehearing conference * * * the Commission or presiding officer may make such orders in regard to the failure as are just including, among others, the following:

(a) Without further notice, find the facts as to the matters regarding which the order was made in accordance with the claim of the party obtaining the order, and enter such order as may be appropriate; or

(b) Proceed without further notice to take proof on the issues specified." 10 CFR 2.707.

The Order to Show Cause notified GLEA that unless it showed good cause, within 20 days, for its default in failing to attend the prehearing conference, it would be dismissed as a party. Thus, GLEA was fully advised of the consequences of a failure to respond. Nevertheless, GLEA did not respond to the Order to Show Cause.

We are mindful that dismissal of a party is the ultimate sanction applicable to an intervenor. On the other hand, where a party fails to carry out the responsibilities imposed by the fact of its participation in the proceeding, such party may be found to be in default and its contentions dismissed. *Boston Edison Co.* (Pilgrim Nuclear Generating Station No. 2), LBP-76-7, 3 NRC 156 (1976). We find that GLEA's unexplained failure to attend the prehearing conference and failure to respond to the Order to Show

Cause are serious lapses which indicate that it should no longer retain its status as party in this proceeding.

Order

Wherefore, it is ordered this 8th day of November 1982 at Bethesda, Maryland that Great Lakes Energy Alliance is in default for failure to attend a prehearing conference on September 21, 1982; that it has not established good cause why it should not be dismissed as a party herein; that it is dismissed as a party herein; and that its three previously admitted contentions are also dismissed.

It is further ordered that since there is no longer any party or contention opposed to the operating license amendment in this proceeding, this proceeding is hereby dismissed.

Atomic Safety and Licensing Board.

James A. Laursen, Jr.,

Chairman.

George C. Anderson.

M. Stanley Livingston.

[FR Doc-82-31200 Filed 11-15-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Invitation for Public Comment on Proposed OFPP Policy Letter

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget.

ACTION: Request for comment on proposed OFPP policy letter.

SUMMARY: The Office of Federal Procurement Policy is requesting public comment and Government agency review and comment on the following proposed Policy Letter. The Policy Letter sets forth Government-wide policy on retainage. Retainage is the practice of retaining or withholding part of the amount due a contractor until the total contract is completed.

DATE: Written comments must be received on or before December 30, 1982.

ADDRESS: Comments are to be submitted to the Office of Federal Procurement Policy, Office of Management and Budget, Room 9025, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Clark, Deputy Associate

Administrator for Procurement System Implementation, (202) 395-3455.

Donald E. Sowle,

Administrator.

POLICY LETTER NO. 82-

TO THE HEADS OF EXECUTIVE AGENCIES AND DEPARTMENTS

SUBJECT: Federal Procurement Policy on Retainage

1. *Purpose.* This Policy Letter is intended to provide uniform policy guidance to control the practice of retaining or withholding funds due contractors pending the completion of contracts.

2. *Background.* Retainage practices vary from agency to agency. Some withhold a standard 10 percent of the contract price until the contract is closed out; others withhold less. Proponents of retainage indicate it protects the Government against inadequate or improper contractor performance and helps ensure timely completion of the contract. Opponents point out that the Government's interests are adequately protected by payment and performance bond requirements and other specific contractual remedies. Subcontracts, in particular, are concerned about retainage practices, as prime contractors often hold retainage on payments due subcontractors until the prime contract is completed and the Government releases any amount retained from the prime.

3. *Policy.* Retainage should not be used as a substitute for good contract management. Determinations regarding the use of retainage and the specific levels to be withheld should be made on the basis of prevailing industry practice, the potential for not obtaining expected performance, prior experience with the contractor, price concessions, and other valid considerations. The level of retainage ordinarily should not exceed ten percent of the amount billed by a contractor in accordance with the contract terms and may be adjusted as contracts approach completion to recognize better than expected performance, the ability to rely on alternative safeguards, and other factors. Upon completion of all contract requirements, retained amounts shall be paid promptly. Government contractors are encouraged to make provisions in their agreement with subcontractors and suppliers for the prompt payment of due amounts.

4. *Responsibilities.* This policy shall be implemented through the Defense Acquisition Regulation (DAR) and the Federal Procurement Regulations (FPR). Appropriate changes shall be made to these regulations to accommodate the policy. Agencies that do not use the DAR and FPR shall make appropriate procurement regulatory changes to implement the policy.

5. *Applicability.* This policy is not applicable to recipients of Federal grants.

6. *Information Contact.* Information about this policy may be obtained by contacting Charles W. Clark, Office of Federal Procurement Policy, (202) 395-3455.

7. *Effective Date.* This policy is to be effective 60 days after issuance.

Donald E. Sowle,
Administrator.

[FR Doc. 82-31338 Filed 11-15-82; 8:45 am]
BILLING CODE 3110-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on: Thursday, December 16, 1982.

These meetings will convene at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, D.C. 20415 (202-632-9710).

William B. Davidson, Jr.,
Chairman, Federal Prevailing Rate Advisory
Committee.

[FR Doc. 82-31181 Filed 11-15-82; 8:45 am]
BILLING CODE 6325-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Acid Rain Peer Review Panel Meeting

November 10, 1982.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Names: Acid Rain Peer Review Panel.
Dates, times, & locations: Dec. 1, 1982; 8:30 AM, Room 5014, New Executive Office of Building, Washington, DC 20500.

Dec. 2, 1982; 8:30 AM, Room 5014, New Executive Office Building, Washington, DC 20500.

Type of meeting: Part Open: Dec. 1, 1982, 10:00 AM-4:30 PM; Dec. 2, 1982, 8:30 AM-3:30 PM.

Part Closed: Dec. 1, 1982, 8:30 AM-10:00 AM; Dec. 2, 1982, 3:30 PM-5:00 PM.

Proposed agenda: (1) Personnel policies, Panel staff selection and integration.

(2) Discussion of Working Group reports from Groups 1, 2, & 3B.

(3) Formulation of a rough outline for draft review of MOI Working Group reports.

Reason for closed meeting: Discussion of personnel policies require discussion of internal personnel procedures of the Executive Office of the President. Discussion of panel staff selection and integration will require discussion of information of a personnel nature, the disclosure of which would constitute a clearly unwarranted invasion of privacy. Accordingly, these portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (2) and (6).

Public participation: Parts of the meeting as indicated above, are open to the public. Due to limited meeting room capacity, individuals wishing to attend should contact Dr. John K. Robertson, Executive Secretary of the Acid Rain Peer Review Panel at (202) 395-7740,

prior to 4:30 PM on November 29, 1982, written comments addressing the MOI Working Group reports under consideration and other issues in the Panel's charter should be submitted to the panel by January 3, 1983, at the address below:

Contact: Dr. John K. Robertson, Executive Secretary, Acid Rain Peer Review Panel, Office of Science and Technology Policy, New Executive Office Building, Room 5013, 726 Jackson Place NW, Washington, DC 20500.

Jerry D. Jennings,
Executive Director, Office of Science and
Technology Policy.

November 10, 1982.

[FR Doc. 82-31359 Filed 11-15-82; 8:45 am]
BILLING CODE 3170-01-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan; National Fruit Canning Company/Oregon Processors Seasonal Employees Pension Trust Fund

AGENCY: Pension Benefit Guaranty
Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from the National Fruit Canning Company, for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATE: Comments must be submitted on or before January 3, 1983.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K

Street, N.W., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006; (202) 254-4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)-(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the sale-contract requirement of section 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner

that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1)(B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets, (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the Federal Register, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from National Fruit Canning Company ("National") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA. In the request, National represents among other things, that:

1. Effective February 1, 1982, Seabrook Foods, Inc., ("Seabrook") sold substantially all of its assets located at Albany, Oregon to National.

2. National has assumed Seabrook's responsibilities under a collective bargaining agreement with Teamster's Local Union No. 670, which obligated Seabrook to contribute to the Oregon Processors Seasonal Employees Pension Trust Fund (the "Fund"). As of December 31, 1981, Seabrook's potential withdrawal liability to the Fund had been calculated by the Fund to be \$36,127.

3. The amount of the bond or escrow required under section 4204(a)(1)(B) is \$10,120 (the average annual contribution required to be made by Seabrook for the three plan years preceding the sale). The sale contract obligates National to either obtain such a bond, or to obtain an exemption from PBGC from the bond requirement.

4. According to its audited financial statement for its fiscal year ended April 30, 1981, National had net assets of approximately \$11.6 million. National has net income after taxes of \$1,714,570 for its fiscal year ended April 30, 1981, \$1,511,182 for its fiscal year ended April 30, 1980 and \$2,107,985 for its fiscal year

ended April 30, 1979 according to its audited financial statements for those years.

5. National has sent a complete copy of the request to the Fund and the collective bargaining representative of the former employees of Seabrook participating in the Fund.

6. On September 23, 1982 (47 FR 42059), PBGC granted National an exemption from the bond/escrow requirement in connection with this same sale of assets, but concerning obligations to the Western Conference of Teamsters Pension Plan. National has indicated that, at the time of the first request, an exemption request for the bond/escrow obligation to the Fund was not submitted because it was believed that Seabrook had no withdrawal liability with respect to the Fund. On October 4, 1982, after PBGC action on the first request, the Fund informed National that Seabrook had an estimated withdrawal liability to the Fund.

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, by January 3, 1983. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 9th day of November, 1982.

Edwin M. Jones,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-31249 Filed 11-15-82; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 4-208; Rel. No. 19229]

American Stock Exchange, Inc., et al.; Order Deferring Expansion of an Automated Interface

November 9, 1982.

In the matter of American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., Philadelphia Stock Exchange, Inc.

The Securities and Exchange Commission is extending the pilot phase of the interface between the Intermarket Trading System ("ITS") and the National Association of Securities

Dealers' ("NASD") NASDAQ system until January 15, 1983. The purpose of this extension is to allow the Commission to continue its review of the comments received in response to its release concerning possible order exposure rules that might govern the ITS-NASDAQ linkage.¹ In addition, the Commission notes that it expects to receive a further set of proposed principles to govern the order exposure area from the special committee of the Securities Industry Association (also known as the "DeNunzio Committee") in the near future. The Commission currently is reviewing the comment letters and expects to take further action in the order exposure area by the end of the year. At that time the Commission may take further action with respect to the possible expansion of the ITS-NASDAQ linkage.²

Accordingly, the Commission hereby issues an order, pursuant to its authority under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)] and particularly Sections 2, 3, 6, 10, 11, 11A, 15, 15A, 17 and 23 thereof [15 U.S.C. 78b, 78c, 78f, 78j, 78k, 78K-1, 78o, 78o-1, 78q, 78w] as follows:

It is hereby ordered that the Commission's order dated April 21, 1981 (Securities Exchange Act Release No. 17744, 46 FR 23856) as amended by the Commission's orders dated March 4, 1982 (Securities Exchange Act Release No. 18537, 47 FR 10682) (the "April 1981 Order") and May 6, 1982 (Securities Exchange Act Release No. 18712) requiring, among other things, the American Stock Exchange, Inc.; Boston Stock Exchange, Inc.; Cincinnati Stock Exchange, Inc.; Midwest Stock Exchange, Inc.; New York Stock Exchange, Inc.; Pacific Stock Exchange, Inc.; Philadelphia Stock Exchange, Inc. and any other self-regulatory organization which hereafter becomes a participant in the ITS and the NASD to act jointly in planning, developing and operating an automated intermarket communications linkage ("Automated Interface") between the ITS and the NASDAQ electronic inter-dealer

¹ Securities Exchange Act Release No. 18738 (May 17, 1982), 47 FR 20413.

² The ITS is governed by a plan ("ITS Plan") filed with, and approved by, the Commission pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 and Rule 11Aa3-2 thereunder. The ITS Plan contains a number of provisions that govern the pilot phase of the ITS-NASDAQ linkage. See, e.g., Section 10(d) of the ITS Plan. The Commission interprets the ITS Plan to provide that such provisions will continue to govern the linkage until the full implementation of the linkage becomes effective.

quotation system, as modified by the NASD to permit computer assisted execution, is amended to defer the date on which full operation of the Automated Interface, as described in the Section I, paragraph B of the April 1981 Order, must be implemented from November 15, 1982, until January 15, 1983.

By the Commission.
George A. Fitzsimmons,
Secretary.
[FR Doc. 82-31346 Filed 11-15-82; 8:45 am]
[BILLING CODE 8010-01-M]

[Release No. 22702; (70-6810)]

Appalachian Power Co.; Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper

November 9, 1982.

Appalachian Power Company ("Appalachian"), 40 Franklin Road, S.W., Roanoke, Virginia 24011, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed an application with this Commission pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

Appalachian proposed to issue and sell short-term notes to a number of banks and commercial paper to a dealer in commercial paper in an aggregate amount not to exceed \$135,000,000 outstanding at any one time. The notes to banks and commercial paper will be issued from time to time and renewed from time to time prior to December 31, 1983, as funds may be required, provided that none of such notes to banks and commercial paper will mature later than June 30, 1984.

Appalachian has credit arrangements totaling \$518,370,000 with two groups of banks. Appalachian's credit arrangements with the first group do not require it to maintain additional balances as compensation for the line of credit made available by the bank since Appalachian maintains deposit balances at such banks for its operational and financial needs in amounts sufficient to satisfy any compensating balances required with respect to borrowings from such banks. Borrowings from these banks will generally bear interest at an annual rate not greater than the bank's prime commercial rate in effect from time to time. The other group includes larger nationally known commercial banks and four non-domestic banking institutions. The total cost of borrowings

from these banks will not be greater than the effective rate for borrowings bearing interest at the prime rate with compensating balances equal to 10% of the line of credit and 10% of the amount borrowed. If the balances maintained and fees paid by Appalachian with respect to the banks were maintained and paid solely to fulfill requirements for borrowing by Appalachian, the effective annual interest cost to Appalachian under any of the arrangements, assuming full use of the line of credit, would not exceed 125% of the prime commercial rate in effect from time to time, or not more than 15% on the basis of a prime commercial rate of 12%. The commercial paper will be sold at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity.

The proceeds of the short-term debt incurred by Appalachian will be added to its general funds and used to pay the general obligations of Appalachian, including expenses incurred in its various construction projects, and for other corporate purposes. The presently estimated cost of Appalachian's net consolidated construction program for the year 1983 is approximately \$223,000,000.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 7, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.
[FR Doc. 82-31267 Filed 11-15-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 12780A; (812-5328)]

Bankers Security Variable Annuity Fund M; Correction

November 8, 1982.

In the Matter of Bankers Security Variable Annuity Fund M; Bankers Security Variable Annuity Fund P; Bankers Security Variable Annuity Fund Q and Bankers Security Life Insurance Society, 1701 Pennsylvania Avenue, N.W., Washington, D.C. 20006, and Oppenheimer Investors Services, Inc., 2 Broadway, New York, New York 10004.

This is to correct an error made in Investment Company Release No. 12780, issued November 2, 1982, in the Matter of Bankers Security Variable Annuity Fund M, Bankers Security Variable Annuity Fund P, Bankers Security Variable Annuity Fund Q, Bankers Security Life Insurance Society and Oppenheimer Investors Services, Inc. In the above referenced notice, the application file number read "812-5238". This number should have read 812-5328.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc 82-31261 filed 11-15-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 22698; (70-6795)]

CNG Producing Co. and CNG Pipeline Co.; a Proposal by Gas Exploration Subsidiary To Transfer Interests in Oil Pipeline to a Wholly-Owned Subsidiary

November 8, 1982.

CNG Producing Company ("Producing Company"), One Canal Place, New Orleans, Louisiana 70130, a wholly-owned, non-utility subsidiary of Consolidated Natural Gas Company, a registered holding company, has filed with this Commission an application-declaration, and an amendment thereto, pursuant to sections 6(a), 7, 9(a), 10 and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50 promulgated thereunder.

Producing Company is engaged in natural gas and oil exploration and development activities primarily in the Gulf of Mexico. In connection therewith, Producing Company owns a 3.3% user capacity interest in an oil pipeline which enables the company to transport and sell at a profit oil and condensate produced as natural by-products during gas exploration operations. For reasons herein outlined, Producing Company seeks authorization to transfer its interest in the pipeline to a wholly-

owned subsidiary, CNG Pipeline Company ("CNG Pipeline"), organized solely to participate in the operation of the pipeline. As a common carrier, the pipeline system will not offer its service to affiliated companies of CNG Pipeline other than Producing Company.

By a recent majority vote of all owner-participants, it was decided to convert the pipeline from a private gathering system to a common carrier within the jurisdiction of the Federal Energy Regulatory Commission. This decision was taken in part to avoid violating statutory law of Texas, a state in which the pipeline operates, which prohibits any corporation to transact business in Texas if it is simultaneously engaged in both crude oil production and the oil pipeline business.

Producing Company represents that on the basis of net book cost, its total interest in the pipeline system is presently valued at \$2,145,800. Producing Company proposes to transfer and convey to CNG Pipeline all right, title and interest in the pipeline at a transfer price equal to this net book cost as of December 31, 1982. In consideration of the transfer, CNG Pipeline will issue to Producing Company (a) 14,000 shares of authorized but unissued common stock, \$100 par value, aggregating \$1,400,000; and (b) \$800,000 principal amount of negotiable long-term notes at an interest rate substantially equal to the cost of money to Producing Company when it acquired the pipeline user capacity interest.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 2, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of

Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31263 Filed 11-15-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 22701, (70-6809)]

Columbus and Southern Ohio Electric Co., Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper

November 9, 1982.

Columbus and Southern Ohio Electric Company ("COC"), 215 North Front Street, Columbus, Ohio 43212, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed an application with this Commission pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

COC proposes to issue and sell short-term notes to a number of banks and commercial paper to a dealer in commercial paper in an aggregate amount not to exceed \$160,000,000 outstanding at any one time. The notes to banks and commercial paper will be issued from time to time and renewed from time to time prior to December 31, 1983, as funds may be required, provided that none of such notes to banks and commercial paper will mature later than June 30, 1984.

COC has credit arrangements totaling \$447,261,000 with two groups of banks. COC's credit arrangements with the first group do not require it to maintain additional balances as compensation for the line of credit made available by the bank since COC maintains deposit balances at such banks for its operational and financial needs in amounts sufficient to satisfy any compensating balances required with respect to borrowings from such banks. Borrowings from these banks will generally bear interest at an annual rate not greater than the bank's prime commercial rate in effect from time to time. The other group includes larger nationally known commercial banks and four non-domestic banking institutions. The total cost of borrowings from these banks will not be greater than the effective rate for borrowings from these banks will not be greater than the effective rate for borrowings bearing interest at the prime rate with compensating balances equal to 10% of the line of credit and 10% of the amount borrowed. If the balances maintained

and fees paid by COC with respect to the banks were maintained and paid solely to fulfill requirements for borrowing by COC, the effective annual interest cost to COC under any of the arrangements, assuming full use of the line of credit, would not exceed 125% of the prime commercial rate in effect from time to time, or not more than 15% on the basis of a prime commercial rate of 12%. The commercial paper will be sold at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality of maturity.

COC also proposes to issue and sell unsecured promissory notes to Banc Ohio National Bank of Columbus, Ohio, in a maximum principal amount of \$8,000,000 to evidence borrowings of funds available from accounts administered by such bank as agent or fiduciary. Such notes will mature 180 days from the date of issuance. COC has the right to pay each such note, and the holder of such note has the right to demand payment, in whole or in part, upon specified notice, at any time prior to maturity. COC has agreed with the lender to borrow and have outstanding, upon notice given by such lender, up to the \$8,000,000 maximum principal amount. Interest on each such note is to be computed daily on the outstanding balance of such note at the discount rate then being paid on the short-term promissory notes of Sears Roebuck Acceptance Corporation, and is payable monthly. The discount rate was 9.125% per annum on September 30, 1982.

The proceeds of the short-term debt incurred by COC will be added to the general funds of COC and used to pay the general obligations of COC, including expenses incurred in its various construction projects, and for other corporate purposes. The presently estimated cost of COC's net consolidated construction program for the year 1983 is approximately \$114,000,000.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 7, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified

of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31206 Filed 11-15-82; 8:45 am]

BILLING CODE 8010-01-M

[812-5285; Rel. No. 12799]

Government Liquid Reserves, Inc.; Filing of Application for an Order Granting Exemptions

November 9, 1982.

Notice is hereby given that Government Liquid Reserves, Inc. ("Applicant"), 1345 Avenue of the Americas, New York, New York 10105, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on August 23, 1982, and an amendment thereto on October 5, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act for the complete text of the provisions of the Act for which an exemption is being sought.

Applicant states that it was incorporated under the laws of Maryland on February 16, 1982. According to the application, Applicant is a "money market fund" that will offer its shares at net asset value without a sales charge. Mutual Management Corp., a subsidiary of Smith Barney, Harris Upham & Co. Incorporated ("Smith Barney"), is Applicant's manager. Smith Barney is its distributor. Applicant's investment objective is to provide shareholders with high current income consistent with preservation of capital and maintenance of liquidity.

According to the application, Applicant may invest in obligations issued or guaranteed by the United States Government, its agencies and instrumentalities, may enter into repurchase and reverse repurchase agreements with respect to such

obligations, and may lend such obligations on a fully collateralized basis to recognized financial institutions. Repurchase agreements maturing in more than seven days are limited to 10% of Applicant's total assets, computed together with any other illiquid assets it may hold.

Applicant represents that it will comply with the restrictions set forth in Investment Company Act Release No. 10666 regarding broker-dealers and other financial institutions that are parties to repurchase agreements. Applicant states that it may also invest in reverse repurchase agreements with brokers, dealers and other financial institutions, so long as its obligations with respect to such agreements would not exceed one-third of its net assets, at market value.

With respect to lending portfolio securities, Applicant states that it will require that the borrower of the securities will at all times maintain cash or equivalent collateral or secure a letter of credit in favor of Applicant equal in value to at least 100% of the value of securities loaned. In addition, in determining to which broker-dealers, banks or other recognized financial institutions securities will be loaned, Applicant's manager will consider all relevant facts and circumstances, including the creditworthiness of such financial institutions and/or the creditworthiness of the bank issuing any letter of credit; Applicant will not enter into any portfolio lending agreement of more than one year's duration; any letter of credit securing a borrower's obligation to return borrowed securities will remain in effect at least as long as the securities remain on loan; and any securities with maturities in excess of one year that Applicant may receive as collateral for a particular loan will not become part of Applicant's portfolio either at the time of the loan or in the event that the borrower defaults on its obligation to return the borrowed securities.

Applicant asserts that it has been the experience of its manager and distributor in managing and distributing other funds, including other "money market" type funds, that in order to attract investors and retain shareholders, Applicant should possess the two attributes of stability of principal, i.e., a stable net asset value, and a steady flow of investment income. Applicant's board of directors believes that Applicant's investment policy of investing only in instruments issued or guaranteed by the United States Government or its agencies or instrumentalities and each having a

remaining maturity of one year or less, with an average portfolio maturity of 120 days combined with a stable price of \$1.00 per share will provide both of those attributes. Applicant states that its manager's experience with respect to securities within Applicant's investment policies indicates that as to instruments maturing in 120 days or less there is normally a negligible discrepancy between market value and the amortized cost value. Applicant believes that valuation of its assets on the amortized cost basis will benefit its shareholders by enabling the maintenance of a stable price per share while allowing a flow of investment income which is less subject to fluctuation than under procedures whereby its dividend would be adjusted by all realized and unrealized gains and losses. As stated in the application, Applicant's board of directors has determined in good faith that, in light of the characteristics of Applicant as described above, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects fair value of such securities.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemption is consistent with the standards expressed in Section 6(c) of the Act. Applicant agrees that the following conditions may be imposed in any order granting the exemptions requested.

1. The board of directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's manager, undertakes—as a particular responsibility within the overall duty of care owed to shareholders of Applicant—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize its net asset value per share, as computed for the purpose of purchases and redemptions, at \$1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Periodic review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, of the relationship between the net asset value per share using amortized cost to value portfolio securities and net asset value per share based upon available indications of market value with respect to such portfolio securities, and the maintenance of records of such review.¹

(b) In the event of a difference of more than one-half of one percent between the two methods of valuation, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the differences between the two methods of valuation may result in any material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to reduce or eliminate, to the extent reasonably practicable, such dilution or unfair results which may include: selling portfolio instruments prior to maturity to realize capital gains (to be declared as dividends) or losses or to shorten Applicant's average portfolio maturity; suspending dividends; effecting redemptions in kind; and utilizing a net asset value per share for purchases and redemptions as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that it will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its cash in such a manner as to reduce such maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the

¹To fulfill this obligation, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its directors in the exercise of their discretion to be appropriate indicators of value, which may include, among other things, (i) quotations or estimates of market value for individual portfolio instruments or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

procedures (and any modifications thereto) described in paragraph 1 above; and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board's meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which the board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating agency, or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

6. If any action was taken pursuant to paragraph 2(c) above, Applicant will file a statement describing with specificity the nature and circumstances of such action within 30 days after the close of each calendar quarter during which such action was taken.

Notice is further given that any interested person may, not later than December 3, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31353 Filed 11-15-82; 8:45 am]

BILLING CODE 8010-01-M

[70-6788; Rel. No. 22705]

National Fuel Gas Co. et al.; Proposal by Holding Company To Sell Debentures at Competitive Bidding; Acquisition by Parent of Notes Evidencing Loans to Subsidiaries and Issuance of Notes by Subsidiaries; Acquisition by Parent of Common Stock in Subsidiary

November 9, 1982.

In the matter of National Fuel Gas Company, 30 Rockefeller Plaza, New York, New York 10020; National Fuel Gas Supply Corporation, 308 Seneca Street, Oil City, Pennsylvania 16301; Penn-York Energy Corporation, 10 Lafayette Square, Buffalo, New York 14203.

National Fuel Gas Company ("National"), a registered holding company, and two of its subsidiaries, National Fuel Gas Supply Corporation ("Supply Corporation") and Penn-York Energy Corporation ("Penn-York"), have filed with this Commission an application-declaration and an amendment thereto under Sections 6(a), 7, 9(a), 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42, 43, 45 and 50 promulgated thereunder.

National proposes to issue and sell in December, 1982 up to \$50,000,000 principal amount of debentures in a series due in 1989. The price and annual interest rate will be determined through competitive bidding at the time of the sale. National intends to employ alternative competitive bidding procedures in accordance with the Commission's statement of policy set forth in Rule 50(b) under the Act (HCAR No. 22623, September 2, 1982). National also represents, however, that should market conditions appear unfavorable, it may eventually request an exception from all competitive bidding requirements under Rule 50(a)(5).

The debentures will be issued under an indenture dated October 15, 1974, as heretofore supplemented, and as supplemented by a proposed third supplemental indenture. This supplemental indenture will provide that none of the new debentures shall be redeemed prior to December 1, 1987. Thereafter, such debentures will be redeemable as a whole or in part, at the option of National, on 30 days' notice

and upon payment of the appropriate principal amount and accrued interest. National has also advanced two amendments to the supplemental indenture which would (1) change the earnings test requirement so that the minimum "income available for interest and subsidiary preferred stock dividends" would be reduced from two and one-half to two times the sum of the annual interest charges and dividend requirements on the consolidated debt of National and its subsidiaries and subsidiary preferred stock; and 2) permit such "income available for interest" to be calculated to include operating revenues subject to refund at a future date.

From the proceeds of the debenture sale, National proposes to lend \$28,000,000 to Supply Corporation and \$22,000,000 to Penn-York in exchange for unsecured notes. The notes will bear interest payable semiannually calculated to reimburse National for its effective costs related to the debenture sale, and will be callable at any time by National. Supply Corporation will apply the proceeds from the sale of its notes to finance deferred purchased gas costs and its construction program. Penn-York will use the proceeds from the sale of its notes to repay notes held by National issued by Penn-York in connection with borrowings under a previously authorized money pool arrangement (HCAR Nos. 21903 and 22351). National proposes to use the entire repayment, not to exceed \$22,000,000, to repay an equal amount of its short-term notes.

Supply Corporation also proposes to pay a cash dividend on its common stock held by National in the amount of \$18,000,000. National intends to use the sum to acquire shares of Penn-York's authorized, but unissued, common stock. The proceeds from the sale of such common stock will be used by Penn-York to repay certain notes held by National issued in exchange for loans received by Penn-York in connection with the previously cited money pool arrangement. National intends to apply this \$18,000,000 to repay an equal amount of its short-term notes.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 2, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be

filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31361 Filed 11-15-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12793; (812-5306)]

Paine Webber RMA Tax-Free Fund, Inc.; Filing of an Application

November 8, 1982.

Notice is hereby given that Paine Webber RMA Tax-Free Fund, Inc. ("Applicant"), 140 Broadway, New York, N.Y. 10005, registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified management investment company, filed an application on September 3, 1982, and an amendment thereto on November 4, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Applicant to the extent necessary (1) from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to permit Applicant to compute its net asset value per share using the amortized cost method of valuation and (2) from the provisions of Section 12(d)(3) of the Act to permit Applicant to acquire rights to sell its portfolio securities to brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act for the complete text of those provisions thereof from which an exemption is being sought.

Applicant will offer its shares only to customers of the Paine Webber Resource Management Account Program, an integrated financial services program. Applicant's investment objective is to achieve the maximum current income exempt from federal income taxes consistent with liquidity and conservation of capital. Applicant states that it will invest in a diversified portfolio of high quality, short-term, tax-exempt obligations,

whose interest payments are exempt from federal income tax. Applicant further states that it will invest in commitments to purchase such obligations on a when-issued basis. Additionally, the application states that the tax-exempt obligations that the Applicant may purchase include both fixed rate and variable rate securities. Applicant also is authorized to purchase Stand-by Commitments with respect to municipal obligations held in its portfolio. Stand-by Commitments give Applicant a right to sell the principal amount of the securities it has purchased from a dealer or other financial institution back to the seller, at Applicant's option, at a specified price.

Investments by the Applicant will be limited to obligations with remaining maturities of one year or less. Applicant will maintain a dollar-weighted average portfolio maturity of 120 days or less. For these purposes, Applicant states that the maturities of variable rate obligations will be determined in accordance with the procedures set forth in proposed Rule 2a-7 or, if the rule should ultimately be adopted, in accordance with the procedures set forth in the rule as adopted.

Applicant states that it intends to declare as dividends payable on each business day all of its net investment income to shareholders of record as of 12:00 noon New York time of the previous business day. Net investment income will consist of the interest income earned on the Applicant's investments (adjusted for amortization of original issue or market discounts or premiums), less estimated expenses, plus or minus any gains or losses realized upon sale of any portfolio securities. Dividends will be automatically reinvested monthly at net asset value in additional shares. The net asset value per share of the Applicant, the price at which shares are issued and redeemed, will be computed by dividing the value of the Applicant's total assets, less its liabilities, by the total number of shares outstanding. Net asset value will be determined every business day at 12:00 noon New York City time.

The application states that Investment Company Act Release No. 9786 (May 31, 1977) expresses the Commission's view (1) that it is inconsistent with Rule 2a-4 for a money market fund to value its portfolio securities maturing in more than sixty days on an amortized cost basis and (2) that the valuation of such securities by such a fund should be made with reference to market factors. Applicant requests an exemption from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1

thereunder to the extent necessary to permit it to value its portfolio by means of the amortized cost method of valuation.

Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant states that it understands that to attract investors to a short-term, tax-exempt vehicle, it must have a stable capital value and a constant and steady flow of investment income. Applicant believes that, in order to attract such investors and retain them as shareholders, it must have a stable net asset value per share and must be able to pay dividends that do not fluctuate as a consequence of changes in the values of its portfolio securities. Applicant states that by investing in high quality, short-term, tax-exempt obligations and valuing such securities on the basis of their amortized cost, the Applicant will benefit such investors by providing an investment vehicle less subject to fluctuation than under alternative procedures whereby its daily dividend would be adjusted by all realized and unrealized gains and losses on its portfolio securities. Management of the Applicant believes that, with respect to a portfolio of tax-exempt obligations with a dollar-weighted average maturity of 120 days or less, the discrepancy between market value and amortized cost is negligible. Applicant's board of directors has determined in good faith that in light of the characteristics of the Applicant, absent unusual or extraordinary circumstances, the amortized cost method of calculating its net asset value per share is appropriate and in the best interests of the Applicant and reflects fair value of such securities.

Applicant agrees that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to

establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at \$1.00 per share.

2. Included within the procedures to be adopted by the board of directors of Applicant shall be the following:

(a) review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's \$1.00 amortized cost price per share, and the maintenance of records of such review.¹

(b) In the event such deviation from the \$1.00 amortized cost price per share exceeds $\frac{1}{2}$ of 1 percent, the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from Applicant's \$1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the Applicant's average portfolio maturity; reducing or withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.²

¹To fulfill this condition, Applicant will use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of municipal securities published by reputable sources.

²In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, if any, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. If any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, Applicant will file, as an attachment to Form N-1Q, a statement which describes the nature and circumstances of such action.

Applicant also requests an order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit its acquisition of Stand-by Commitments from brokers or dealers.

Applicant states that the Stand-by Commitments will have the following features: (1) They will be in writing and will be physically held by the Applicant's custodian; (2) they may be exercisable by the Applicant at any time or during specified periods prior to the maturity of the underlying security; (3) they will be entered into only with dealers, banks and broker-dealers who, in the investment adviser's opinion, present a minimal risk of default; (4) Applicant's right to exercise them will be unconditional and unqualified; (5) although they may not be transferable, municipal obligations purchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the municipal obligations which are subject to the commitment (excluding any

accrued interest which the Applicant paid on their acquisition), less any amortized market premium or plus any amortized or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by the Applicant.

Applicant states that it intends to enter into Stand-by Commitments with only those banks, brokers and dealers which in its investment adviser's opinion, present minimum credit risks. The Applicant intends to acquire Stand-by Commitments solely to facilitate portfolio liquidity and does not intend to exercise its rights thereunder for trading purposes. Applicant states that it will not acquire Stand-by Commitments to promote reciprocal practices, to encourage the sale of its shares, or to obtain research services.

Applicant further states that since it plans to value its municipal obligations on an amortized cost basis, the amount payable under a Stand-by Commitment will be substantially the same as the value assigned by Applicant to the underlying security. Applicant submits there is little risk of an event occurring which would make amortized cost valuation of its portfolio securities inappropriate. In such event, however, it is represented that Applicant expects to refrain from exercising the Stand-by Commitments in such a situation to avoid imposing a loss on a dealer and jeopardizing Applicant's business relationship with that dealer.

According to the Applicant, if necessary and advisable, the Applicant will pay for Stand-by Commitments, either separately in cash or by paying a higher price for portfolio securities which are acquired subject to the commitment. Applicant states, as a matter of policy, the total amount "paid" in either manner for outstanding Stand-by Commitments held in its portfolio will not exceed $\frac{1}{2}$ of 1% of the value of its total assets calculated immediately after any Stand-by Commitment is acquired.

Applicant states that the acquisition of Stand-by Commitments will not affect its net asset value per share and will not pose new investment risks. Applicant further states that it will value Stand-by Commitments at zero, regardless of whether any direct or indirect consideration was paid. Where Applicant has paid for a Stand-by Commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held.

Applicant contends that the relationship between the Applicant and the dealer will be comparable to a fully

collateralized broker-dealer repurchase agreement or security loan and that the risk of loss that would result from the failure of a broker or dealer to fulfill its obligation under the Stand-by Commitments is not qualitatively different from the risk of loss faced by an investment company holding securities pending settlement after having agreed to sell the securities to a broker or dealer in the ordinary course of business.

Notice is further given that any interested person may, not later than November 30, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31260 Filed 11-15-82; 8:45 am]

BILLING CODE 8010-01-M

[812-5212; Rel. No. 12795]

Phoenix Mutual Life Insurance Co., et al; Filing of Application for an Order Granting Exemptions November 9, 1982.

November 9, 1982.

In the matter of Phoenix Mutual Life Insurance Company, Phoenix Mutual Variable Accumulation Account and Phoenix Equity Planning Corporation, One American Row, Hartford, Connecticut 06115.

Notice is hereby given that Phoenix Mutual Life Insurance Company ("Company"), Phoenix Mutual Variable Accumulation Account ("Account"), a separate account of the Company registered under the Investment Company Act of 1940 ("Act") as a diversified open-end management investment company, and Phoenix Equity Planning Corporation ("PEPCO"), the principal underwriter of the Account (collectively, "Applicants"), filed an application on June 11, 1982, and an amendment thereto on October 29, 1982, for an order pursuant to Section 6(c) of the Act granting exemptions from the above referenced provisions of the Act and regulations thereunder, to the extent necessary to permit transactions described in the application. All interested persons are referred to the application for the complete representations of the Applicants, which are summarized below, and are referred to the Act and Rules thereunder for a statement of the relevant provisions.

The Company established the Account as a means to fund individual deferred variable accumulation contracts ("Contract"). Assets of the Account will be held by State Street Bank and Trust ("Custodian"). Purchase payments, less any applicable premium taxes, are allocated by the contractowner to one or more of three existing sub-accounts of the Account. Subject to certain limitations, a contractowner may transfer all or part of his interest from one sub-account to another. A transfer will be accomplished at "relative accumulation unit values" on the valuation date immediately following the Company's receipt of a written transfer request, and a fee of \$10 will be imposed.

The Company will deduct a fixed \$35.00 contract fee upon completion of the first contract year and each anniversary date thereafter, and upon surrender of the contract (without proration for a surrender occurring in the middle of a contract year). Applicants assert that the transfer and contract fees are reasonable related to expected actual costs and are not calculated to include a profit element.

In addition, the Company will deduct a mortality risk charge and an expense risk charge which on an annual basis will equal .4% and .6%, respectively, of the daily net asset value of the Account. Applicants assert that such charges are reasonable in light of the purposes intended and are comparable to charges made by other insurance companies for similar products.

The Account's investment adviser, Phoenix Investment Counsel, Inc., will receive a fee, computed daily, equal to

an annual rate of .5% of the first \$500,000,000; .45% of the next \$500,000,000; and .4% of the excess over \$1,000,000,000 of the aggregate average daily value of the Account.

Purchase payment which have been deposited under the Contract for seven years or more may be withdrawn without charge. In addition, after the first anniversary of the contract, up to 10% of the accumulated value of the previous anniversary date may be withdrawn without charge. A contingent deferred sales charge, which will vary depending upon the number of years less than seven that the sums had been deposited under the Contract, will be imposed upon additional withdrawals. This charge is 1% of payments withdrawn six years after deposit, and increases an additional 1% for each year less than six that the withdrawn payments had been on deposit. Withdrawals are handled on a first-in, first-out basis, and total contingent deferred sales charges will not exceed 9% of the total amount of purchase payments.

The Applicants propose to make Contracts available to persons covered by the Texas Optional Retirement Program ("Program"). The Attorney General of Texas has interpreted a relevant provision of Texas law to prohibit a participant in the Program from redeeming his annuity contract for cash or receiving a loan for all or part of his accumulated contributions, notwithstanding express contractual language permitting such transactions. In this regard, Applicants represent that sales representatives will be instructed to inform prospective purchasers that withdrawal rights under the Program are restricted. Applicants will review any sales literature used to ensure that the restrictions on redemption are disclosed. Moreover, purchasers will be required to sign a statement acknowledging that they are aware of the restrictions, and the prospectuses used will describe the restrictions.

Finally, Applicants note that under certain circumstances the Custodian might not take physical delivery of certain securities or assets purchased by the Account, but that in such cases the requirements of section 17(f) of the Act and rules thereunder will be met.

Relief Requested

Applicants request the following exemptions: from Sections 2(a)(32), 2(a)(35), 22(c), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c-1 thereunder to the extent deemed necessary or appropriate to imposed the contingent deferred sales charge; from

Section 27(c)(2) to the extent deemed necessary or appropriate to impose the contract fee, asset risk charge and the transfer fee, and to deduct the investment advisory fee and premium taxes; from Sections 2(a)(32), 22(c), 27(c)(1) and 27(d) of the Act and Rule 22c-1 thereunder to the extent deemed necessary or appropriate to allow Applicants to deduct the contract maintenance charge non pro rata at the time of a total redemption on a date other than a contract anniversary date; from Section 27(c)(2) to allow the Custodian to hold certain assets of the Account as described above; and from Sections 22(e), 27(c)(1), and 27(d) to the extent deemed necessary or appropriate to allow Applicants to impose restrictions on redemption on the contracts issued to Program participants that are consistent with the Texas Attorney General's interpretation.

Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested party may, not later than December 3, 1982, at 5:30 p.m., submit to the Commission a written request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication shall be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31352 Filed 11-15-82; 8:45 am]

BILLING CODE 8010-01-M

[811-3187; Rel. No. 12797]

PIA Asset Cash Trust; Filing of Application for an Order Pursuant to Section 8(f) of the Act Declaring That Applicant Has Ceased To Be an Investment Company

November 9, 1982.

Notice is hereby given that PIA Asset Cash Trust ("Applicant"), 421 Seventh Avenue, Pittsburgh, PA 15219, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on September 7, 1982, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized under the laws of the Commonwealth of Massachusetts on April 14, 1981, and registered under the Act on May 26, 1981. The application further states that Applicant filed a registration statement under the Securities Act of 1933 on May 26, 1981, to register an indefinite number of shares of beneficial interest, that that registration statement became effective on August 19, 1981, and that the initial public offering commenced on September 17, 1981.

According to the application, Applicant's board of trustees recommended to shareholders on June 25, 1982, that its affairs be wound-up and terminated, and that on the same date a unanimous consent of shareholders approving the termination was executed.

Applicant further states that pursuant to the approval of its shareholders and in accordance with its Declaration of Trust and the laws of Massachusetts, it was dissolved on June 25, 1982, and that articles of dissolution were filed with the Secretary of State of the Commonwealth of Massachusetts on August 3, 1982. Applicant further states that prior to June 25, 1982, its securityholders' shares were either voluntarily redeemed by Applicant at the shares' net asset value, or were voluntarily exchanged for shares of

Money Market Instrument Trust at their net asset value.

The application also states that Applicant has no assets and no shareholders, is not a party to any litigation or administrative proceedings, and is not engaged in any business activities other than those necessary for the winding-up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than December 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31350 Filed 11-15-82; 8:45 am]

BILLING CODE 8010-01-M

[812-5326; Rel. No. 12800]

Shearson Appreciation Fund, Inc. and Shearson/American Express Inc.; Filing of an Application for an Order Granting an Exemption

November 9, 1982.

The Shearson Appreciation Fund, Inc. ("Appreciation Fund"), registered under

the Investment Company Act of 1940 ("Act"), and Shearson/American Express Inc. ("Shearson"), Two World Trade Center, New York, NY 10048, the principal underwriter of Appreciation Fund (hereinafter, "Applicants"), have filed an application for an order pursuant to Section 6(c) of the Act exempting Applicants from certain provisions of Section 22(d) of the Act and the rules thereunder to permit sales of shares of Appreciation Fund at net asset value to shareholders of The Hornblower Growth Fund, Inc. ("Growth Fund"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemption applies.

According to the application, Appreciation Fund is currently engaged in a continuous public offering of its shares to the public through Shearson at a public offering price equal to net asset value plus a sales charge. Applicants further state that Shearson/American Express Asset Management Inc. ("Asset Management"), a subsidiary of Shearson, serves as investment adviser to both Appreciation Fund and Growth Fund. Appreciation Fund's assets, as of June 30, 1982, totaled \$14,181,654. Applicants state that Growth Fund was organized as a Maryland corporation and registered under the Act, in 1969, as a non-diversified, no-load, open-end, management investment company whose investment objective is capital appreciation. Formed primarily to provide a pooled investment vehicle for advisory clients of Asset Management, Applicants represent that no offering of Growth Fund to the general public was ever made. In response to a declining number of shareholders due to redemptions Growth Fund applied to the Commission in 1974 for an order declaring that it had ceased to be an investment company. The Commission granted Growth Fund's request since Section 3(c)(1) of the Act excludes issuers whose outstanding securities are beneficially owned by less than one hundred persons and who are not making, and do not presently plan to make, a public offering of its securities, from the definition of "investment companies" under the Act. Subsequent to August 14, 1974, Growth Fund has operated as a private investment company. As of May 31, 1982, Growth Fund's 29 shareholders held approximately 44,000 shares of the Growth Fund. Asset Management owns

8.11% of Growth Fund, and Growth Fund's total assets, as of May 31, 1982, approximated \$954,000.

In addition to their common investment objectives and their common investment adviser, Growth Fund and Appreciation Fund share several common officers and directors. On July 26, 1982, Growth Fund's directors determined that it was in the best interests of their shareholders to liquidate Growth Fund's assets and distribute the net proceeds thereof to shareholders. The board of directors adopted a plan of liquidation which was approved by the shareholders at a meeting held on October 8, 1982. The proxy statement sent to Growth Fund shareholders to solicit approval of the plan of liquidation stated that, subject to the order requested being granted, each shareholder of Growth Fund may purchase at net asset value a number of shares of Appreciation Fund with a cumulative net asset value equal to (or less than) the amount received by such shareholder as a result of Growth Fund's liquidation. The Growth Fund proxy statement was accompanied by a current prospectus of Appreciation Fund. The ability to purchase Appreciation Fund shares will remain open to Growth Fund shareholders for a period of 30 days from the later of (i) completion of the distribution of liquidation of Growth Fund's net assets or (ii) the date on which the order requested is granted.

Appreciation Fund's directors have determined that the interests of Appreciation Fund shareholders would not be diluted as a result of the foregoing transaction; they assert that the elimination of the sales load represents economies in sales not present in comparable sales effected through normal distribution channels. Shearson has advised Appreciation Fund that no individual or in-person group sales solicitations or presentations concerning Appreciation Fund will be made.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in the prospectus. Rule 22d-4 permits an investment company, under certain circumstances, to sell redeemable securities pursuant to a merger with a private investment company at a price other than that described in its prospectus.

Applicants concede that the exemption provided by Rule 22d-4 is unavailable since their proposed offer does not involve a merger between two

funds, but assert that the policy considerations underlying Rule 22d-4 support their liquidation and exchange proposal. Applicants submit that Appreciation Fund's directors have made the findings required by Rule 22d-4 had their transaction been structured as a merger. The directors, including a majority of the disinterested directors, concluded that (i) the interests of existing shareholders of Appreciation Fund will not be diluted and (ii) the elimination of the sales load does not unfairly discriminate among shareholders because it represents economies experienced in such sales not present in a comparable sale effected through normal channels of distribution. Applicants further assert that granting the exemption they request is appropriate in the public interest and consistent with the protection of investors and the purposes of Section 22(d) of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 6, 1982, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as a matter of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and

orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31349 Filed 11-15-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 22703; (31-789)]

**Texas Gas Transmission Corp.;
Application for Order Pursuant to
Section 2(a)(4)**

November 9, 1982.

Texas Gas Transmission Corporation ("TGT"), P.O. Box 1160, Owensboro, Kentucky 42301, a Delaware corporation, has filed with this Commission an application and an amendment thereto pursuant to Section 2(a)(4) of the Public Utility Holding Company Act of 1935 ("Act") for an order declaring it not to be a "gas utility company" as therein defined.

TGT is an interstate pipeline company engaged in the purchase, transportation and sale of natural gas. It is also engaged through subsidiaries, in oil and gas exploration, barging and other non-utility businesses. At December 31, 1981, TGT's consolidated assets were approximately \$1.7 billion and its consolidated revenues and earnings for the year then ended were approximately \$2.6 billion and \$137 million, respectively. Its gas revenues for the year ended December 31, 1981, were approximately \$1.7 billion. TGT proposes to accomplish a corporate restructuring under which a new corporation would own all of TGT's common stock. One of the conditions to the restructuring is that TGT obtain an order declaring it not to be a gas utility company pursuant to Section 2(a)(4).

TGT's natural gas sales, by types of and average number of customers, for the year ended December 31, 1981, were as follows:

	Amount (000 omitted)	Average number of customers
Municipal and gas utilities	\$723,273	86
Pipeline companies	950,421	9
Manufacturers and other industrial	7,448	4
Farm, rural and irrigation	588	92
	\$1,681,730	191

TGT's farm, rural and irrigation sales constituted .04% of its total gas sales for

1981. Applicant states that such sales are made exclusively pursuant to "tap" clause arrangements entered into with landowners along the company's pipeline in Louisiana who have granted TGT rights-of-way, easements or other privileges. The terms of sale are set under contract. TGT also provides "free" gas to approximately 498 customers in Kentucky and Indiana, such service being to rural landowners or their successors-in-interest who have granted TGT the right to store natural gas in underground reservoirs underlying their lands. These gas deliveries are made without charge and are unmetered. TGT does not engage in any distribution to identifiable communities within geographic areas under franchises. Applicant states that its rural sales and "free" gas service are of a special and limited character within the meaning of *Panhandle Eastern Pipe Line Company*, HCAR No. 22060 (May 21, 1981), and *Transwestern Pipeline Company*, HCAR No. 22133 (July 20, 1981).

TGT has applied for an order declaring it not to be a "gas utility company" pursuant to Section 2(a)(4) of the Act. Section 2(a)(4) provides that the Commission may declare a company not to be a "gas utility company" if it finds that "(A) such company is primarily engaged in one or more businesses other than the business of a gas utility company, and (B) by reason of the small amount of natural or manufactured gas distributed at retail by such company it is not necessary in the public interest or for the protection of investors and consumers that such company be considered a gas utility company for the purposes of [the Act]."

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 7, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-31286 Filed 11-15-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-675]

Trio-Kenwood Corp. Application and Opportunity for Hearing

November 9, 1982.

Notice is hereby given that Trio-Kenwood Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for exemption from the reporting requirements of Section 15(d) of the 1934 Act.

The Applicant states in part:

(1) The Applicant is a Japanese corporation subject to the reporting provisions of Section 15(d) of the 1934 Act.

(2) As of July 29, 1982, Applicant had twenty-four shareholders resident in the United States, and those persons held some 41,000 shares of common stock or approximately 0.1% of the total common stock outstanding.

In the absence of an exemption, Applicant would be required to file certain periodic reports with the Commission pursuant to Section 15(d) of the 1934 Act, including an annual report on Form 20-K for the fiscal year ended May 20, 1982. Applicant believes that the exemption would not be inconsistent with the public interest or the protection of investors in view of the very small number of common stockholders resident in the United States and the very small aggregate size of their holdings.

For a more detailed statement of the information presented, all persons are referred to said application, which is on file in the office of the Commission at 450 5th Street, NW., Washington, DC 20549.

Notice is further given that any interested person, not later than December 6, 1982 may submit to the Commission his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549, and should briefly state the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he

desires to controvert. Any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-31347 Filed 11-15-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12022]

Union Oil Company of California; Application and Opportunity for Hearing

November 9, 1982.

Notice is hereby given that Union Oil Company of California ("Union Oil") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Continental Illinois National Bank and Trust Company of Chicago ("Continental") under an indenture qualified under the Act (the "Qualified Indenture") and the trusteeship of Continental under two indentures not so qualified (the "New Indentures") are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Continental from acting as trustee under any of those indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (a) of such Section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after

opportunity for hearing thereon, that the trusteeship under such qualified indenture and such other indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee under either of such indentures.

In support of its Application, Union Oil alleges that:

(1) Continental is acting as trustee under an indenture in which Union Oil is the obligor (the Qualified Indenture). This indenture, dated March 1, 1976, involved the issuance of \$200,000,000 principal amount 8% Debentures due March 1, 2006, and has been qualified under the Act.

(2) Continental also has entered into an indenture, dated as of September 1, 1982, with the County of Summit, Ohio ("Summit County") as issuer, involving \$3,000,000 principal amount Series 1982 Industrial Development Revenue Bonds (the "1982 Summit County Bonds") bearing interest at a rate of 62½% of the interest rate applicable to 13-week United States Treasury bills at the time of the interest calculation and due on demand or not later than August 31, 1992. Union Oil has entered into a loan agreement (the "1982 Loan Agreement"), dated as of September 1, 1982, with Summit County under which Summit County has loaned funds to Union Oil to finance the cost of the acquisition, construction, improvement and equipping of a chemical distribution center, certain land and equipment (the "Project") as described in Exhibit A to the 1982 Loan Agreement. The 1982 Summit County Bonds are to be payable solely from revenues derived by Summit County from Union Oil under the terms of the said Loan Agreement. The rights and benefits of Summit County under the said Loan Agreement have, except for certain rights of and amounts payable to Summit County related to expenses incurred and indemnification, been assigned to Continental as Trustee as security for payment of the 1982 Summit County Bonds. The rights to payment assigned are sufficient to enable Summit County to pay the principal of, and interest and redemption payments (including redemption premiums, if any) on, the said Bonds. The 1982 Summit County Bonds will not be registered under the Securities Act of 1933 (the "1933 Act") pursuant to the exemption contained in Section 3(a)(2) thereof. The 1982 Summit County Indenture of Trust (the "Summit County Indenture") will not be qualified under the 1939 Act pursuant to the exemption contained in Section 304(a)(4)

thereof (referring to Section 3(a)(2) of the 1933 Act).

(3) Continental also has entered into an indenture, dated as of September 1, 1982, with the Genesee County (New York) Industrial Development Agency ("Genesee County") as issuer, involving \$2,750,000 principal amount Series 1982 Industrial Development Revenue Bonds (the "1982 Genesee County Bonds") bearing interest at a rate of 62½% of the interest rate applicable to 13-week United States Treasury bills at the time of the interest calculation and due on demand or not later than August 31, 1992. Union Oil has entered into an installment sale agreement (the "1982 Installment Sale Agreement") with Genesee County under which Genesee County has sold, assigned, and conveyed to Union Oil its rights, title and interest in the construction of a certain auto/truckstop facility (the "Project") as described in Exhibit A to the 1982 Installment Sale Agreement. The 1982 Genesee County Bonds are to be payable solely from revenues derived by Genesee County from Union Oil under the terms of the said Installment Sale Agreement. The rights and benefits of Genesee County under the said Installment Sale Agreement have, except for certain rights of and amounts payable to Genesee County related to expenses incurred, indemnification, and amounts payable in lieu of taxes, been assigned to Continental as Trustee as security for payment of the 1982 Genesee County Bonds. The rights to payment assigned are sufficient to enable Genesee County to pay the principal of, and interest and redemption payments (including redemption premiums, if any) on, the said Bonds. The 1982 Genesee County Bonds will not be registered under the 1933 Act pursuant to the exemption contained in Section 3(a)(2) thereof. The 1982 Genesee County Indenture of Trust (the "Genesee County Indenture") will not be qualified under the 1939 Act pursuant to the exemption contained in Section 304(a)(4) thereof (referring to Section 3(a)(2) of the 1933 Act).

(4) Execution of the New Indentures may involve Continental in a conflict of interest within the meaning of Section 6.08 of the Qualified Indenture since the new Indentures are not being qualified under the Act and are not the subject of any other proceeding of the Commission.

(5) Union Oil's obligations with respect to the Debentures and the said Bonds are wholly unsecured and rank *pari passu inter se*. The only material differences between the Qualified Indenture and the New Indentures and

between the rights of the holders of the Debentures and the holders of the 1982 Summit County Bonds and the 1982 Genesee County Bonds relate to the fact that Union Oil is the issuer of the Debentures whereas its payment obligations under the said Bonds are, in the case of Summit County, through the assignment by Summit County to Continental as Trustee of its rights under the 1982 Loan Agreement and, in the case of Genesee County, through the assignment by Genesee County to Continental as Trustee of its rights under the 1982 Installment Sale Agreement. Aside from additional differences among these three indentures as to aggregate principal amounts, dates of issue, interest rates, maturity dates, redemption prices, sinking fund, and similar provisions, the other terms of said indentures are substantially similar.

(6) No default has at any time existed under the Qualified Indenture or under the New Indentures.

(7) Such differences as exist among the three indentures under the trusteeships of Continental are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Continental from acting as trustee under any of said indentures.

Union Oil has waived notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said Application, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than December 2, 1982 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said Application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the Application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors,

unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31348 Filed 11-15-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 19221; File No. SR-NASD-82-21]

Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc.

November 8, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 20, 1982, the National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street, N.W., Washington, D.C. 20006, filed with the Securities and Exchange Commission the proposed rule change described below. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change adopts guidelines specifying the maximum amounts of organization and offering expenses ("Expenses"), including all forms of underwriting compensation, that may be received by a member who participates in a public offering of a direct participation program ("DPP"). The guidelines are adopted pursuant to Subsections 5(b) (1) and (2) of Appendix F of the NASD's Rules of Fair Practice which require that Expenses be fair and reasonable taking into consideration all relevant factors and state that Expense arrangements which conform with the guidelines shall be presumed to be fair and reasonable.¹

The guidelines establish two types of limitations regarding compensation and Expenses. First, the amount of compensation received by underwriters, broker-dealers or affiliates in connection with or related to the distribution of a public offering of a DPP cannot exceed ten percent of the program proceeds. In addition, an underwriter may receive reimbursement from the issuer for an amount not exceeding one half of one percent of the program proceeds for bona fide "due diligence" expenses it incurred without that reimbursement being subject to the ten percent limitation. Second, the guidelines limit

¹ Appendix F was approved by the Commission in Securities Exchange Act Release No. 19054 (September 16, 1982), 47 FR 42226, September 24, 1982.

the amount of Expenses paid by a program is which a member or an affiliate of a member is a sponsor to fifteen percent of the program's proceeds. Such Expenses include the total amount of underwriting compensation, any "due diligence" reimbursement, costs incurred in preparing the DPP for registration and costs associated with offering interests in a DPP to the public. The guidelines adopted by this rule change were published in a NASD Notice-to-Members, No. 82-51, dated October 19, 1982.

The NASD states that, given the special benefits associated with many DPPs, the limitations contained in the guidelines are necessary to prevent a member or affiliated person from allocating excessive proportions of program proceeds to Expenses which could jeopardize the economic viability of the investment and dilute the tax benefits available to investors.² The NASD believes the potential for abuse by a member or affiliated person in connection with the initial funding of a DPP necessitates such regulatory limitations for the protection of investors because of the absence of arms-length negotiations between the parties. Finally, the NASD states that the guidelines are needed because existing state regulations do not adequately address the inherent conflict of interest in a DPP where the sponsor and the underwriter are affiliated.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At anytime within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the *Federal Register*. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NASD-82-21.

Copies of the submission, all subsequent amendments, all written

² See, Pages 28-30 of the Form 19b-4 submitted for the amendment to rule filing NASD-81-19, as referenced on page 8 of the Form 19b-4 of the present filing.

statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the NASD.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31282 Filed 11-15-82; 8:45 am]
BILLING CODE 8010-01-M

[File No. SR-NYSE-82-1 etc.]

New York Stock Exchange, Inc., et al.; Order Approving Proposed Rule Changes

November 9, 1982.

In the matter of proposed rule changes submitted by the New York Stock Exchange, Inc. (File No. SR-NYSE-82-1), the American Stock Exchange, Inc. (File No. SR-Amex-82-5), the Midwest Stock Exchange, Inc. (File No. SR-MSE-82-6), the Pacific Stock Exchange, Inc. (File No. SR-PSE-82-11), the Philadelphia Stock Exchange, Inc. (File No. SR-PHLX-82-9) and the National Association of Securities Dealers, Inc. (File No. SR-NASD-82-13) (Release No. 19227).

Introduction

Several self-regulatory organizations—the New York Stock Exchange, Inc. (the "NYSE"), the American Stock Exchange, Inc. (the "Amex"), the Midwest Stock Exchange, Inc. (the "MSE"), the Pacific Stock Exchange, Inc. (the "PSE"), the Philadelphia Stock Exchange, Inc. (the "PHLX") and the National Association of Securities Dealers, Inc. (the "NASD")—have submitted similar proposed rule changes to the Commission¹ pursuant to Section

³ 17 CFR 200.30-3(a)(12).

¹ The New York Stock Exchange, Inc. filed NYSE 82-1 on January 18, 1982, notice of which was published in the *Federal Register* on February 1, 1982 (see Securities Exchange Act Release No. 18459 (February 1, 1982), 46 FR 5567 (February 5, 1982)); the American Stock Exchange, Inc. filed Amex 82-5 on April 19, 1982, notice of which was published in the *Federal Register* on July 19, 1982 (see Securities

19(b)(1) of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder. The proposed rule changes, effective January 1983, would in effect require certain member organizations and their customers to use the facilities of a registered securities depository ("depository") for the confirmation, affirmation and settlement of "COD/DVP" transactions in depository-eligible securities³ whereby payment for securities purchased or delivery of securities sold is to be made by or to an agent of the customer.⁴ Only those COD/DVP trades settled in the United States through a third-party settlement agent would be subject to the proposed rule changes. Furthermore, the proposed rule changes would apply to these transactions only if they involved a member organization and a customer's agent that are both participants in, or have access through correspondents to, a depository. The proposed rule changes represent a joint effort by the self-regulatory organizations to overcome certain obstacles to financially responsible and efficient handling of sustained high volume trading, particularly the "Don't Know" ("DK") institutional trade problem discussed below.

The NYSE and the NASD solicited from their members comments on their proposed rule changes. The NYSE received two comments which

supported adoption of proposed Rule 387. These commentators, however, suggested a delay in the rule's implementation until July 1983 in order to permit adequate time for depositories, broker-dealers, custodian banks and investment managers to implement appropriate internal procedures to accommodate increased use and reliance on depository facilities. In addition, the Commission solicited and received two comments with substantially similar remarks.⁵ The NASD did not receive any comments.

As discussed below, the Commission has determined to approve the proposed rule changes.

Background

In 1980, a Joint Committee was formed by the Operations Committee of the Securities Industry Association (the "SIA") and the NYSE to address widespread concern about the industry's capability, particularly during periods of sustained high volume trading, to process institutional trades without unnecessary cost or risk and within the routine five-day time frame associated with broker-to-broker settlement of securities transactions ("street-side settlement"). The Joint Committee identified the "DK Problem" as a primary obstacle to the safe and efficient handling of the sustained high volume of institutional trades, particularly when DK's occur during settlement between brokers and their customers ("customer-side settlement").⁶

² See File No. SR-NYSE-82-1, letters from the Wilmington Trust Company (April 14, 1982) and the United States National Bank of Oregon (February 26, 1982), addressed to the Commission; and the American Bankers Association (March 5, 1982), addressed to the NYSE. The Commission, however, has monitored the industry's preparations for implementing the proposed rule changes, and, for reasons discussed later in this Order, believes that no extension of time is necessary.

The fourth commentator, the Trust Company Bank, opposed adoption of the proposed rule change, among other reasons, because of the erroneous assumption that NYSE Rule 387 would compel members that were not depository participants to incur the expense of direct participation. See letter from the Trust Company Bank to the NYSE (February 11, 1982) and, in response, letter from the NYSE to the Trust Company Bank (March 2, 1982).

⁶ In the typical institutional trade, there are at least three parties involved in the customer-side settlement process: the investment manager, the custodian bank, and the customer-side broker-dealer. After executing the trade for the investment manager, the broker must confirm the terms of the trade in writing to the investment manager. See 17 CFR 240.10b-10. If the confirmation conforms to the investment manager's records of the ordered trade, the investment manager must issue instructions to the custodian bank authorizing the receipt or delivery of securities against payment to or by the broker (commonly referred to as "affirmation"). In the absence of appropriate instructions, the custodian bank will refuse to settle the trade with

the broker. This refusal to complete timely customer-side settlement historically has been referred to as the DK problem.

Although street-side settlement occurs routinely five days after execution of the trade ("T+5") within the clearing agency environment, customer-side settlement, particularly for institutional trades, may take place as many as 35 days after trade date⁷ and often occurs outside clearing corporations and depositories ("ex-depository"). Inasmuch as institutional trades involve several parties (the investment manager, custodian bank, and broker)⁸ who must collectively accomplish various settlement tasks in a short time frame, settlement may be plagued by delays⁹ and errors that significantly increase settlement-related expenses to all parties.¹⁰ The most significant expense is the cost to brokers of financing customer positions until settlement finally occurs.

The Depository Trust Company ("DTC"), a securities depository, operates an automated settlement system for institutional transactions (the "ID system").¹¹ The ID system coordinates among brokers, investment managers and custodian banks participating in the system all the tasks that must be accomplished to effect customer-side settlement (*i.e.*, confirmation, affirmation and book-entry settlement). In cooperation with DTC, the Midwest Securities Trust Company ("MSTC") and the Philadelphia Depository Trust Company ("Philadep") implemented the National Institutional Delivery System ("NIDS") and the Philadelphia Institutional Delivery System ("PIDS"), respectively.¹² NIDS and PIDS provide

the broker. This refusal to complete timely customer-side settlement historically has been referred to as the DK problem.

⁷ See 12 CFR 220.4(c)(1982), discussed *supra* note 4.

⁸ Many institutions use an investment manager to manage the institution's portfolio and a bank trust department to maintain custody of portfolio assets and funds. The investment manager, with investment discretion over the portfolio, uses the services of a broker-dealer to execute trades in securities transactions.

⁹ A common delay results from use of the mail for the delivery of confirmations and instructions.

¹⁰ Other costs incurred include DK resolution costs and personnel costs. See discussion *infra*.

¹¹ See letter from Edward J. McGuire, Secretary and Counsel, the Depository Trust Company, to Francis Snodgrass, Associate Director, Division of Market Regulation, Securities and Exchange Commission, (March 3, 1974) and Exhibit A to that letter explaining the ID system. In the ID system, the average monthly volume of confirmations processed through the system rose to 341,021 for the second quarter of 1982, up 18% from 288,460 for the comparable 1981 period. At the same time the number of fully participating institutions increased 46% to 821 from 561.

¹² The Commission understands that the Pacific Securities Depository Trust Company plans to implement an institutional delivery system similar

Exchange Act Release No. 18881 (July 9, 1982)), 47 FR 31647 (July 21, 1982); the Midwest Stock Exchange, Inc. filed MSE 82-6 on June 28, 1982, notice of which was published in the Federal Register on July 21, 1982 (see Securities Exchange Act Release No. 18882, [June 28, 1982], 47 FR 31649 (July 21, 1982)); the Pacific Stock Exchange, Inc. filed PSE 82-11 on September 27, 1982, notice of which was published in the Federal Register on October 18, 1982 (see Securities Exchange Act Release No. 19151 (October 18, 1982), 47 FR 47713 (October 27, 1982)); the Philadelphia Stock Exchange, Inc. filed PHLX 82-9 on October 14, 1982, notice of which was published in the Federal Register on October 22, 1982 (see Securities Exchange Act Release No. 19170 (October 22, 1982), 47 FR 49776 (November 2, 1982); and on August 19, 1982), the National Association of Securities Dealers, Inc. filed NASD 82-13, notice of which was published in the Federal Register on August 27, 1982 (see Securities Exchange Act Release No. 19020 (August 27, 1982), 47 FR 39048 (September 3, 1982)). The Municipal Securities Rulemaking Board ("MSRB") has published for public comment the exposure draft of a similar rule for municipal securities transactions.

¹⁵ U.S.C. 78s(b)(1).

² A depository eligible security is an issue of securities that is eligible for safekeeping and book-entry transfer services in a registered securities depository. See, e.g., DTC, Rules and Procedures, Rule 5, Section 1.

⁴ COD/DVP privileges commonly are extended by broker/dealers to institutional customers. The privileges result in an exception to the requirement of Regulation T that customers pay for securities within seven (7) business days after the date of purchase and permit payment on delivery or within thirty-five (35) calendar days of the trade, whichever is earlier. See 12 CFR 220.4(c) (1982).

facilities for the confirmation, affirmation and automated settlement of institutional trades involving Philadep or MSTC banks, brokers and customers. In addition, NIDS and PIDS, by participating in DTC's ID system, extend confirmation and affirmation services to trades involving DTC participants on one side and sole participants in either MSTC or Philadep on the other side. Book-entry settlement of these trades is possible through the existing automated depository interfaces.¹³

DTC has recently enhanced the ID system to permit the delivery of institutional trade confirmations to as many as four participating parties interested in a trade. This enhancement facilitates the settlement of institutional trades whenever a custodian bank participates in a depository indirectly through a correspondent bank that is a member of the depository (often referred to as "piggybacking"). ID confirmations can now be sent directly to piggybacking correspondent banks, and, as a result, brokers and their customers can be assured that the party that must release the funds or securities will

obtain timely information regarding the trade.¹⁴

In view of those efficiencies and economies associated with ID processing, following its review, the Joint Committee determined that increased use of automated depository settlement systems would enhance prompt and accurate settlement and would reduce the number of DK's and the associated costs.¹⁵

Description of Proposed Rule Changes

Effective January 1, 1983, the proposed rule changes would prohibit members from accepting COD/DVP orders from their customers unless certain conditions are met. Those conditions include, among other things, that the facilities of a depository be used for the confirmation, affirmation and book-entry settlement of depository-eligible transactions. Although the rules do not mandate participation in a registered securities depository and do not require participation in any particular securities depository, the rules are intended to effect increased use of depository institutional delivery systems.¹⁶

There are, however, three exceptions to the general rule. The first exception would exclude trades effected by members of an exchange or the NASD that are settled outside the United States.¹⁷

The second exception precludes application of the general rule where neither the broker nor its settlement agent are participants in a registered securities depository. Similarly, the last exception provides that the general rule is inapplicable if neither the customer nor its settlement agent are participants in a registered securities depository. Thus, the rules do not require such member firms or investment institutions not presently participants in a

depository to incur the expense of participation.

In addition, although the proposed rule changes would require the settlement of applicable securities transactions at depositories, they would not require securities to remain on deposit after settlement. This appears to be consistent with state laws that require certain institutional investors to maintain assets within the state.¹⁸ While such institutions would be required to effect a deposit of securities by the settlement date, such a deposit should be possible through the network of regional depository input stations affiliated with the registered securities depositories.¹⁹ This network should permit institutional investors to settle trades through a depository facility efficiently without abridging state laws that require these entities to safe-keep their securities within a particular state.

Discussion

1. Applicable Legal Standards

Under Section 19(b)(2) of the Act, the Commission must approve a proposed rule change filed by a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules thereunder applicable to the self-regulatory organization. Several statutory requirements relevant to this determination were cited by the self-regulatory organizations that filed the proposed rule changes: Sections 17A(a)(1) and (2), 17A(e), 15A(b)(6), and 6(b)(5) of the Act. The Commission also considers relevant the following sections of the Act: 17A(a)(3)(F), 15A(b)(9), and 6(b)(8). As discussed below, the Commission finds that the proposed rule changes are consistent with the Act, and in particular, the sections of the Act specified above.

2. Section 17A: National System for Clearance and Settlement of Securities Transactions

Section 17A(a)(2) directs the Commission to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities in accordance with several statutory objectives and Congressional findings. These objectives and findings include linking all clearance and settlement facilities and developing uniform standards and procedures for clearance

to NIDS and PIDS prior to the effective date of the proposed rule changes.

¹³ Although DTC acts as central processor for NIDS and PIDS, trades between two MSTC or two Philadep participants settle at MSTC or Philadep, respectively. Trades involving a dual participant in MSTC and DTC or Philadep and DTC may be settled at the depository of the participant's choice. DTC currently charges fees to broker and bank participants for institutional delivery system services. Those fees, in turn, are passed through by MSTC and Philadep to the broker and bank participants using NIDS and PIDS services. See Securities Exchange Act Release No. 19012 (August 25, 1982), 47 FR 38660 (September 1, 1982) and Securities Exchange Act Release No. 19029 (September 1, 1982), 47 FR 39775 (September 9, 1982).

DTC recently considered amending its fees for confirmations and affirmations distributed to investment managers through the institutional delivery system, to impose a fee on investment managers. In light of critical comment from investment managers, DTC determined not to assess fees to investment managers directly, but to continue to recover the costs for those additional services through charges to participating banks and brokers acting on behalf of investment managers. See Securities Exchange Act Release No. 19012 (August 25, 1982) 47 FR 38660 (September 1, 1982). The Commission understands that DTC has asked the ID Task Force, which includes representatives from the brokerage, banking and investment manager communities, to consider if and to what extent fees should be assessed investment managers for institutional delivery system confirmations and affirmations. In the event DTC determines to assess such fees, the Commission expects DTC will file a proposed rule change in accordance with the Act, at which time the Commission will solicit comment on and consider the appropriateness of charging investment managers direct fees for institutional delivery system services.

¹⁴ See "ID Confirmations for Interested Parties," DTC Newsletter Supplement (September 1981).

¹⁵ See File No. SR-Amex-82-5, pp. 2-3.

¹⁶ Currently, some active depository participants do not use the full-range of institutional delivery services.

¹⁷ Trades executed outside the United States but settled in the United States would be subject to the rule, however, as would trades with foreign customers that are executed and settled in the United States. In both circumstances, it will be necessary for brokers and agent banks to forward confirmations to and receive affirmations from foreign customers or foreign investment managers.

The Commission understands that several methods are currently available for timely delivery of confirmations and affirmations between foreign investment managers and United States brokers and custodian banks. Generally, these include a telecommunications network maintained by the agent bank, delivery of standing delivery/receive instructions to the agent bank, and the use of telex communication facilities. See "Overseas Confirm Volume Continues to Rise," DTC Newsletter Supplement (May 1982).

¹⁸ See, e.g., N.J. REV. STAT. § 17:24-12 (1978) and FLA. STAT. ANN. § § 35-628.271 (1978).

¹⁹ See, e.g., Securities Exchange Act Release No. 18968 (August 16, 1982) 47 FR 36741 (August 23, 1982).

and settlement, facilitating the prompt and accurate clearance and settlement of securities transactions, employing new data processing and communications techniques that promote more efficient, effective and safe clearance and settlement of securities transactions, reducing the physical movement of securities certificates, and promoting the safeguarding of funds and securities in the control of a clearing agency or for which a clearing agency has custody.

With respect to the first objective, Congress determined that the implementation of linked systems and uniform standards would reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors. The institutional delivery systems²⁰ developed by the registered securities depositories provide uniform procedures for the confirmation and affirmation of institutional trades. In addition, those depositories, through interface agreements, have established complementary procedures that permit book-entry settlement among participants in different depositories. Thus, the institutional delivery systems, in conjunction with depository interfaces, facilitate communications about and settlement of institutional trades without regard to the parties' geographic location or choice of depository, thereby promoting one account settlement.²¹ By requiring increased use of institutional delivery systems by brokers, custodian banks and customers, the proposed rule changes promote uniformity in clearance and settlement procedures for customer-side processing of institutional trades.

Requiring increased use of these systems, together with the use of depository interfaces, should also reduce unnecessary costs associated with the customer-side settlement of institutional trades, in furtherance of the goals of Section 17A. As noted above, delayed or lost affirmations and settlement instructions frequently cause DK's and delays in settlement as well as associated capital²² and financing

charges. As a result, the parties to an institutional trade incur increased aggregate processing costs, the most significant of which is the cost to brokers of financing the value of and interest on the customer's position. The Joint Committee estimated that these financing costs may exceed \$100 million a year. In addition, all parties involved in the trade incur unnecessary communication and administrative costs associated with the clerical tasks regarding, and redelivery of, the lost or delayed documents.

During the "Paperwork Crisis" in the late 1960's, the absence of automated facilities for processing securities transactions, and the flood of "pieces of paper of all types which had to be received, processed, recorded and delivered, all within a short time span,"²³ among other things, caused severe operational problems for many firms and led to the demise of many broker-dealers.²⁴ In the aftermath of the Paperwork Crisis, broker-dealers and others made significant investments in computer and communications systems to revolutionize the street-side settlement process.

At the present time, however, brokers, investment managers and custodian banks involved in institutional transactions contend with substantial quantities of paper that must be handled swiftly to effect timely customer-side settlement. Therefore, by expanding the use of automated facilities to replace the labor-intensive settlement tasks for institutional trades, the proposed rule changes being approved today will carry the revolution in street-side processing more effectively than in the past to the customer-side settlement process. These results should greatly limit the likelihood of a paperwork crisis in processing institutional trades during the continued high volume periods anticipated in the future.

Correspondingly, the attendant errors and unnecessary costs currently experienced by many industry participants should be reduced. Thus, by extending the use of new data processing and communication techniques that should promote efficient, effective and safe clearance and settlement of securities transactions, the

proposed rule changes specifically foster Congressional objectives.²⁵

The proposed rule changes are also consistent with the statutory directive to facilitate the prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities and related funds.²⁶ Congress determined that safety and accuracy in securities processing protects investors and persons facilitating transactions by and acting on behalf of investors. By requiring most institutional trades to be cleared and settled within an automated, regulated depository environment,²⁷ the proposed rule changes facilitate accurate and efficient clearance and settlement of securities transactions. Accomplishing the various settlement tasks electronically within a time frame that parallels street-side settlement²⁸ should reduce the opportunity for error.

Finally, by mandating settlement of monetary and securities delivery obligations through depository facilities, the proposed rule changes promote the safeguarding of funds and securities, consistent with Section 17A(a)(3)(F) of the Act. Use of interfaces will necessarily increase as current depository participants are required to make more extensive use of depository facilities for book-entry settlement of trades for customers whose agents are located in different regions of the country. Since interfaces enable one account settlement, the proposed rule changes should extend the cost savings and safeguards inherent in one account settlement to customer-side processing of institutional transactions. In addition, the proposed rule changes, by reducing customer-side DK's and promoting prompt customer-side settlement should reduce the number of stock and cash loans brokers require to satisfy street-side obligations incurred in the ordinary course of their business.

²⁰ See Section 17A(a)(1)(B).

²¹ See Section 17A(a)(1)(A).

²² Although the proposed rules provide exceptions when certain of the parties are not depository participants, the Commission understands that brokers and custodian banks currently responsible for most institutional transactions in depository-eligible securities are depository participants.

²³ The institutional delivery systems require that all basic pre-settlement tasks be completed by T+3 in order for settlement to occur, as scheduled, on T+5. These systems are designed to accommodate minor corrections and adjustments until T+4. Currently, however, the absence of such an opportunity for trade correction where customer-side settlement takes place ex-depository tends to preclude timely settlement.

²⁴ See discussion in text at notes 12-15, *supra*.

²⁵ One account settlement enables a party to a trade to settle all its trades, regardless of the geographic location of the execution, recordation and comparison of the trade, through one clearing corporation and one depository. This reduces unnecessary costs, including fees for participation in and use of more than one depository facility.

²⁶ See, e.g., 17 CFR § 240.15c3-1 (c)(2)(ix), (f)(5)(iv) (1982) as amended by Securities Exchange Act Release No. 18737 (May 13, 1982) 47 FR 21759 (May 20, 1982).

²⁷ Securities and Exchange Commission, Study of Unsafe and Unsound Practices of Brokers and Dealers, H.R. Doc. No. 231, 92nd Cong., 1st Sess. 26 (1971).

²⁸ See *Id.* at 9-30. During the Paperwork Crisis, the increased number of DK's on the street-side of transactions led to many fail-to-deliver contracts. Due to those fails, in many instances brokers were unable to effect timely settlement with their customers.

3. Sections 6 and 15A: The National Securities Exchanges and the NASD

In their filings, the self-regulatory organizations indicated their belief that the proposed rule changes are consistent with Sections 6 and 15A of the Act because they benefit all parties to an institutional trade by facilitating the flow of essential information among interested parties. Also, pursuant to Sections 6 and 15A, the rules of the national securities exchanges and the NASD, respectively, should, among other things, foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in securities.

The Commission notes that the proposed rule changes, by requiring automated confirmations, affirmations and settlement by certain members and their customers, would increase the quantity and accuracy of trade information regarding customer-side settlement available to participants and self-regulatory organizations through the institutional delivery systems.²⁹

In addition, when the proposed rule changes are implemented, settlement reports can be generated from this information for use by the national securities exchanges and the NASD in connection with their surveillance and enforcement activities.³⁰ Specifically, these reports can be used to identify potential operational problems at particular firms and to assess the capacity of the regulated community, as a whole, to process institutional trades.

The NASD further indicated that its proposed rule change is consistent with Section 15A in that it will remove impediments to and perfect the mechanism of a free and open market and a national market system "by streamlining the settlement process for COD transactions and reducing the number of problem trades of this type."³¹ In this connection, the

²⁹ Currently, cooperation and coordination is very good among the national securities exchanges, the NASD, the depositories and the clearing corporations. For instance, trade data for comparison purposes is systematically and routinely forwarded by brokers to the exchanges and clearing agencies and, where applicable, by the exchanges and the NASD directly to the clearing agencies. See, e.g., Securities Exchange Act Release No. 18890 (July 14, 1982), 47 FR 32674 (July 28, 1982) (Automated Bond Settlement Program); and Securities Exchange Act Release No. 19095 (October 4, 1982), 47 FR 46005 (October 14, 1982) (Trade Acceptance and Reconciliation Service).

³⁰ The Commission understands that DTC, as central processor for the institutional delivery systems, will be generating such reports to the self-regulatory organizations routinely.

³¹ See File No. SR-NASD 82-13.

Commission notes that increased member ability to handle sustained high volume trading, as facilitated by the proposed rule changes, would be consistent with this Section of the Act.

Sections 15A(b)(9) and 6(b)(8): Burden on Competition and General Business Impact

The proposed rule changes of the national securities exchanges³² and the NASD³³ may not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The legislative history of the Act indicates that the Commission, in administering its competition policy responsibilities, must balance any adverse competitive effects of proposed rule changes against the purposes of the Act that are furthered by the proposed rule changes in determining whether to approve those rule changes.³⁴

In their filings, the self-regulatory organizations stated their belief that the proposed rule changes would not impose a burden on competition. Before making a finding with regard to competitive effect, however, the Commission believes that it is useful to examine the potential costs to brokers, custodian banks and investment managers resulting from the proposed rule changes. In addition, the Commission believes that it is appropriate to consider the impact of the proposed rule changes on competition among depositories for depository services, competition among various entities in providing custodial services and competition among broker-dealers for institutional accounts.

The Commission believes that the aggregate benefits to brokers, investment managers and custodian banks from mandatory use of depository facilities greatly overshadow the aggregate costs to these parties of compliance with the proposed rule changes. Nevertheless, the Commission recognizes that nondepository participants as well as depository participants that are non-ID users, have incurred and may continue to incur expenses in connection with their compliance efforts. For instance, such parties must adapt their current operations to the systems through which they will be processing the settlement activity of COD/DVP securities transactions. In particular, brokers must

³² See Section 6(b)(8) of the Act.

³³ See Section 15A(b)(9) of the Act.

³⁴ See Report of the Senate Comm. on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 13-14 (1975); Conference Report to Accompany S. 249, H.R. Rep. No. 229, 94th Cong., 1st Sess. 94-95 (1975).

identify those accounts which are subject to the rule (i.e., COD/DVP accounts that can settle through a depository) and devise internal procedures to capture and convey to the depository certain additional data, such as the identity of the institution, agent bank and any interested parties that are to receive confirmations or other reports generated by the institutional delivery systems. Custodian banks for nondispository participant investment managers would also incur certain additional expenses as a result of the proposed rule changes, primarily in connection with the distribution of confirmations.

The Commission notes, however, that these costs will vary among banks, brokers and investment managers in light of the volume of institutional trade activity and the alternative means of compliance available to each party to the trade. For instance, some investment managers may choose not to participate directly in a depository, but rather to rely on a depository participant custodian bank that has the capacity to communicate and forward through its own facilities (such as automated communications systems or efficient manual systems) confirmations and affirmations to the appropriate parties. Under these circumstances, the investment manager would avoid the costs associated with direct depository participation.³⁵ With regard to a non-depository broker, as an alternative to direct depository participation, such a broker may choose to establish a correspondent relationship with another participating broker-dealer.³⁶ A participating broker, on the other hand, may avoid the expense of installing and

³⁵ Some non-depository participant investment managers, however, may choose to use a non-depository participant custodian bank, thereby incurring no additional expense as a result of the proposed rule changes. The Commission, suspects, however, that the number of investment managers that will choose not to become a direct or indirect depository participant will be limited since the benefits derived from predictable and timely customer-side settlement should outweigh the expense associated with depository usage.

³⁶ Conceivably, some member organizations that are not currently depository participants may be deterred from joining a depository, after January 1, 1983, unless they are able to comply with the proposed rule changes. It is likely that any such organizations would defer direct participation until their personnel and operations can routinely accomplish customer-side settlement of transactions subject to the rule changes through depository facilities. Because such participants can comply with the rule in the interim by using a correspondent clearing member, and because the number of such participants is very limited, the Commission believes that the value of uniform compliance and efficient processing by clearing brokers outweighs unspecified incremental entry costs for prospective direct depository participants.

operating a computer system by submitting trade data to a depository on paper (*i.e.*, "hard copy"), assuming this is cost-effective in light of the volume of trades to be settled through a depository. Similarly, custodian banks may obtain standing instructions to affirm trades on behalf of a non-depository participant investment manager, thereby reducing such banks' expenses in complying with the proposed rule changes.

In light of the flexibility afforded brokers, banks and investment managers in effecting compliance with the proposed rule changes, the Commission believes that the proposed rule changes do not impose any unwarranted or excessive costs on the parties to such trades and that the benefits derived from widespread, uniform and safe automated processing of institutional trades far outweigh the compliance-related expenses. These expenses are, for the most part, one time implementation or start-up costs. The benefits, however, should be realized continuously over time. For instance, brokers should experience, after the initial expense of developing compliance systems, reduced aggregate expenses in connection with processing institutional trades.³⁷ The Commission anticipates that this may translate into, among other things, reduced commission charges to institutional investors.

The incremental expenses associated with depository participation consistent with the proposed rule changes may be sizeable in the aggregate, when viewed in isolation. The Commission believes, however, that these added expenses are likely to be insignificant in the aggregate, when viewed in light of the resultant aggregate cost savings. Indeed, most of the major financial institutions affected by the proposed rule changes have already incurred the expenses in anticipation of the benefits.

With regard to competition among depositories, the Commission believes that the proposed rule changes will not impose a competitive burden on the provision of traditional depository services. The proposed rule changes would appear to increase the use of certain depository services, as well as the revenues generated by those services, without mandating the use of a particular depository. Moreover, through the recently developed depository interfaces, book-entry settlement—the primary service affected by the proposed rule changes—would continue to take place at the depository chosen by each party involved in each trade. No

³⁷ As noted above, the aggregate financing cost savings may exceed \$100 million annually.

registered depository appears to be adversely affected by the proposed rule changes since all depositories will participate in the linked national system through existing depository interfaces.³⁸

With regard to the sale of custodial services, depositories complete to some extent with custodian banks and brokers. By requiring settlement to occur through the facilities of a depository, the proposed rule changes may favor increased direct use of depository facilities. Any arguable adverse competitive effect on non-depository custodians, however, would appear to be mitigated by the absence of a requirement in the proposed rule changes that securities be maintained in a depository account after settlement. In addition, under the proposed rules, custodians that wish to perform a full-service role for their institutional customers can operate automated communications systems adequate to assure timely confirmation, affirmation and settlement through the institutional delivery systems. Moreover, the proposed rule changes do not mandate only direct participation in depositories by custodian banks that previously did not use depository facilities. The Commission finds, therefore, that the proposed rule changes will not impose any inappropriate burden on competition in the sale of custodial services.³⁹

³⁸ Decisions regarding the location of trade execution and depository participation may depend, in part, on applicable fees imposed by interfacing depositories. In the context of interfaces among the clearing corporations, the Commission has indicated that the imposition of fees, directly or indirectly, or movements of securities through clearing corporation interfaces ("interface fees") frustrate the administrative and economic benefits of interfacing and can represent an inappropriate burden on competition. *See, e.g.*, Securities Exchange Act Release Nos. 13163 (January 13, 1977) at 79-96; 17343 (November 26, 1980) at 40-50; 18823 (June 21, 1982) at note 7. The Commission has considered interface fees among clearing corporations inappropriate primarily because, if set at high enough levels, they may discourage the use of interfaces and can even influence the willingness of brokers to transact with other broker-dealers that are not members of the same clearing corporation. The Commission has not resolved finally whether interface fees among securities depositories are inappropriate under all circumstances. The depositories have filed with the Commission proposed rule changes that raise these issues, the resolution of which the Commission plans to consider in acting on those rule changes.

³⁹ The Commission notes that as a result of the proposed rule changes, there may be significantly more competition for custodial services among custodian banks that provide such services to "piggyback" correspondent banks. Many smaller agent banks may find that in the future it will prove more cost-effective to maintain custodial accounts at larger custodian banks than to incur the various expenses attendant to direct participation.

Finally, the Commission must consider the competitive and business impact on investment managers that need to modify their systems and procedures to comply with the rules. Since the proposed rule changes would encourage more efficient, reliable and cost-effective settlement for all parties involved in an institutional trade, many investment managers have already adjusted their systems. When the proposed rule changes are implemented, those adjustments should reduce their aggregate processing costs. In addition, although investment managers, by affirming orders executed by brokers, play an essential role in timely depository settlement of institutional trades, the investment managers need not participate directly in a depository to affirm trades and, indeed, may affirm and settle COD/DVP trades through the facilities of participating custodian banks consistent with the proposed rule changes.⁴⁰ The Commission therefore finds that the proposed rule changes will not impose any inappropriate burden on competition among investment managers and that widespread, uniform use of automated depository facilities is important to the financial community's ability to complete institutional transactions in a financially responsible and efficient manner, particularly during sustained high volume trading.

Preparedness of the Industry for Implementation

As indicated, some industry participants requested a delay in the effective date of the proposed rule changes to provide the industry with yet additional time in which to prepare for compliance with the proposed rules. There has been and continues to be a tremendous industry effort by brokers, custodian bank and investment managers to adapt or modify their internal systems and procedures to accommodate the institutional delivery systems, use of which will be required by the proposed rule changes. As

⁴⁰ Thus, some investment managers may choose, at least at the outset, not to join a depository directly. Many of these institutions will nevertheless be able to effect settlement through a depository facility, consistent with the proposed rules. This will be true if these institutions' settlement agents are direct or indirect depository participants and if these institutions, either through automated communications systems or standing instructions, are able to affirm trade data consistent with institutional delivery system requirements. Moreover, the Commission anticipates that industry-wide acceptance of an automated five-day settlement time frame may encourage non-depository participating investment managers to use that time frame for settlement even through they process trades through non-depository settlement agents.

discussed below, the Commission believes that the industry should be adequately prepared to comply with the effective date of the proposed rule changes in January 1983.

To enable phased and timely industry preparation for the implementation, several organizations have sponsored and continue to sponsor educational programs.⁴¹ These programs presented recommendations for assuring compliance, in an effort to educate bankers, brokers, investment managers and others affected by the proposed rule changes as to the rules' operation. In addition, the ID Implementation Committee⁴² is sponsoring a series of training seminars designed to help potential users phase into the ID system.

The Commission recognizes that preparation for compliance with the proposed rule changes entails significant time and attention by some brokers-dealers, banks, and investment managers (particularly since many changes must be accomplished in a short amount of time). The Commission believes, however, that significant strides to ensure compliance have been made to date, through excellent cooperative efforts involving the self-regulatory organizations and representatives of the banking, securities and investment management industries. The proposed rule changes have been the subject of debate for at least two years; they have been filed with the Commission over the course of 1982 and during this time were subject to careful consideration by the staff and affected parties. Moreover, based upon industry efforts and the self-regulatory organizations' representations that their members will be capable of compliance on January 1, 1983, the Commission believes that the target date of January 1983 is an important and realistic goal.

Compliance and Enforcement

Because approval of the proposed rule changes will require several sectors of the securities processing community to continue their preparedness efforts, the Commission anticipates that pressure may be exerted on one or more of the self-regulatory organizations to disregard non-compliance with the rule changes. The Commission is concerned, however, that uneven enforcement of

the rules may adversely affect the competitive position of complying depository participants.⁴³ The Commission expects, therefore, that the self-regulatory organizations will engage in uniform surveillance and enforcement of the rules to preclude any inequitable effect. Nonetheless, the Commission hopes that the self-regulatory organizations will be sensitive to any legitimate initial delays that attend responsible and good faith efforts to make needed systems changes.

Conclusion

For the reasons stated above, the Commission finds that the proposed rule changes are consistent with the Act and the rules thereunder applicable to the national securities exchanges and the NASD. The Commission also finds that the proposed rule changes will not impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In performing its customary oversight responsibilities, the Commission will continue to observe customer-side settlement performance through the facilities of registered securities depositories with a view to determining whether the rules of the national securities exchanges and the NASD are being complied with and enforced. If it should appear that the rules are not being observed and cannot be enforced effectively in the future, the Commission can revisit the matter.

The Commission also finds good cause for approving the proposed rule changes of the Pacific Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc., prior to the thirtieth day following publication of the notices of filing. Accelerated approval of these proposed rule changes would promote, among other things, uniformity in the industry, by enabling the rules of all the proposing exchanges and the NASD to gain effect simultaneously. Moreover, public comment on the substance of the industry initiatives has been solicited repeatedly in connection with identical proposed rule changes of the other self-regulatory organizations, and, as noted,

⁴¹ For example, should one broker choose not to comply with the rules, that broker may experience an advantage over other brokers if institutional customers obtain COD/DVP privileges from the non-complying broker. This potential competitive advantage, however, could arise only if a substantial institutional broker fails to comply with the rules, and the marketplace self-regulatory organizations fail to enforce compliance vigorously and uniformly. In addition, the potential advantage could be meaningful from a competitive standpoint only if investment managers and brokers generally demonstrated a preference for the inefficient and costly methods of processing securities transactions that the proposed rule changes were designed to avoid.

no comments on the merits of the proposals have been received. Further public comment thus seems unnecessary.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-31354 Filed 11-15-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19226; File No. SR-NYSE-82-18]

Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc.

November 8, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 1, 1982, the New York Stock Exchange ("NYSE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would increase by approximately 8% the NYSE's monthly charges for the NYSE bond ticker, the NYSE bond ticker display, delayed prices service, and magnetic tape services. The new rates will be effective January 1, 1983. In its filing, the NYSE states that the purpose of the proposed rule change is to recover a portion of the increased operating expenses associated with providing the affected services. The proposed fees will apply equally to all members, non-members, broker-dealers and others who subscribe to those services. The NYSE states that the statutory basis for the proposed rule change is section 6(b)(5) of the Act which provides for the equitable allocation of reasonable dues, fees and other charges among participants.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

⁴¹ For example, the SIA sponsored a topical forum on the amendment to NYSE Rule 387 in June 1982, which was attended by over 500 persons from various sectors of the financial community.

⁴² The ID Implementation Committee consists of members of the banking, brokerage and investment manager communities. In addition, the New York Stock Exchange, the American Bankers Association, the Investment Company Institute, the Life Office Management Association and certain representative of DTC are all active participants in the Committee.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-82-18.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31264 Filed 11-15-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19222; File No. SR-MCC-82-16]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corp.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 22, 1982 the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MCC advised MCC members of its authority to reverse money adjustments in the event of non-payment by the contra party in an MST Administrative Bulletin distributed to MCC members on October 20, 1982.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

Under Midwest Clearing Corporation Rule 6, Section 5, money adjustments may be made between Participants for mark-to-the-market charges and other miscellaneous charges. Such charges may be done through a "974" adjustment and by the soon to be announced Money Adjustment Ticket capability, among other methods. Such money adjustments are incorporated into a Participant's daily money settlement figure.

The MST Administrative Bulletin advises Participants that, consistent with MCC's role as agent in processing such money adjustments, MCC retains the right in its discretion, to reverse charges in the event of non-payment under its rules by the contra side, with the resulting deletion of credits, for any money adjustments between Participants where the settlement process of MCC is used to facilitate such money adjustment.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934 in that, while continuing to facilitate the settlement of money adjustments between Participants, it enables MCC to protect itself and its Participants from losses due to non-payment by one side of a money adjustment by reversing any credits made.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Midwest Clearing Corporation does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 8, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31259 Filed 11-15-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19223; File No. SR-MSTC-82-23]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Co.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given

that on October 22, 1982 the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MSTC advised MSTC members of its authority to reverse money adjustments in the event of non-payment by the contra party in a MST Administrative Bulletin distributed to MSTC participants on October 20, 1982.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.* Under Midwest Securities Trust Company Rule 3, Section 4, money adjustments may be made between Participants for mark-to-the-market charges and other miscellaneous charges. Such charges may be done through a "974" adjustment and by the soon to be announced Money Adjustment Ticket capability (SR-MSTC-82-12), among other methods. Such money adjustments are incorporated into a Participant's daily money settlement figure.

The MST Administrative Bulletin advises Participants that, consistent with MSTC's role as agent in processing such money adjustments, MSTC retains the right in its discretion, to reverse charges in the event of non-payment under its rules by the contra side, with the resulting deletion of credits, for any money adjustments between Participants where the settlement process of MSTC is used to facilitate such money adjustments.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934 in that,

while continuing to facilitate the settlement of money adjustments between Participants, it enables MSTC to protect itself and its Participants from losses due to non-payment by one side of a money adjustment by reversing any credits made.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 8, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31265 Filed 11-15-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirement Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the *Federal Register* notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before December 10, 1982. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., N.W., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538.

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814.

SUPPLEMENTARY INFORMATION:

Title: Nomination for the Small Business Subcontractor of the Year Award.

Form No.: SBA 883.

Frequency: One time.

Description of Respondents: Prime contractors wishing to submit nominations.

Annual Responses: 209.

Annual Burden Hours: 836.

Type of Request: New.

Dated: November 9, 1982.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 82-31330 Filed 11-15-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular Public Debt Series No. 30-82]

Bonds of Series 2007-2012; Interest Rates

November 10, 1982.

The Secretary announced on November 9, 1982, that the interest rate on the bonds designated Bonds of 2007-2012, described in Department Circular—Public Series—No. 30-82, dated October 28, 1982, will be 10% percent. Interest on the bonds will be payable at the rate of 10% percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-31358 Filed 11-15-82; 8:45 am]

BILLING CODE 4810-40-M

Performance Review Board

AGENCY: Office of the Secretary, Treasury.

ACTION: Notice of Members of Performance Review Board (PRB).

SUMMARY: This notice announces the appointment of members of the composite PRB for the Bureaus of Engraving and Printing, Mint, Government Financial Operations, and Public Debt.

FOR FURTHER INFORMATION CONTACT:

Irvin E. Faunce, Deputy Commissioner, Bureau of Government Financial Operations, Room 620, Annex, Madison Place, N.W., Washington, D.C. 20226; Telephone 202-566-5038.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4) and the Civil Service Reform Act of 1978, the members of the Senior Executive Service Performance Review Board for the Bureaus of Engraving and Printing, Mint, Government Financial Operations, and Public Debt, are listed below. This Board reviews the performance of Senior Executives below the level of

bureau head and principal deputy in the four bureaus, except for the Assistant Commissioner Comptroller at the Bureau of Government Financial Operations. At least three voting members constitute a quorum.

Primary and Alternate

E&P: Robert J. Leuver, Assistant Director (Administration); Milton J. Seidel, Assistant Director, (Research and Engineering).

Mint: Larry E. Rolufs, Deputy Director; Galen D. Dawson, Assistant Director for Production.

GFO: Irvin E. Faunce, Deputy Commissioner; Michael D. Serlin, Assistant Commissioner (Governmentwide Accounting).

Bland T. Brockenborough, Assistant Commissioner (Administration); John Turner, Assistant Commissioner (Disbursement and Claims).

PD: Richard L. Gregg, Acting Deputy Commissioner; Kenneth W. Rath, Assistant Commissioner (Washington), Eleanor J. Holsoption, Assistant Commissioner (Administration).

This notice does not meet the Department's criteria for significant regulations.

Dated: November 10, 1982.

Irvin E. Faunce,

Deputy Commissioner, Bureau of Government Financial Operations, Performance Review Board Chairman, 1982.

[FR Doc. 82-31355 Filed 11-15-82; 8:45 am]

BILLING CODE 4810-25-M

Treasury Notes of November 30, 1984, Series Y-1984

[Dept. Cir. Public Debt Series—No. 31-82]

Washington, November 12, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$6,750,000,000 of United States securities, designated Treasury Notes of November 30, 1984, Series Y-1984 (CUSIP No. 912827 NW 8). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent to each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturity Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve

Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated November 30, 1982, and will bear interest from the date, payable on a semiannual basis on May 31, 1983, and each subsequent 6 months on November 30 and May 31 until the principal becomes payable. They will mature November 30, 1984, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$5,000, \$10,000, \$100,000 and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a latter date.

3. Sale Procedures

3.1 Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, November 17, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, November 16, 1982, and received no later than Tuesday, November 30, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$5,000, and larger bids

must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed \$1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in the borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a $\frac{1}{8}$ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.950. That rate of interest will be paid on all of the securities. Based on

such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting non-competitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, November 30, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, November 26, 1982. When payment has been submitted with the tender and the purchase price of

allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name of address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public

Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-31501 Filed 11-15-82; 11:20 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists a revision. The entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202) 389-2146. Comments and questions about the items on this list should be directed to

the VA's OMB Desk Officer, Karen Sagett, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503 (202) 395-6880.

DATES: Comments on the form should be directed to the OMB Desk Officer on or before January 17, 1983.

Dated: November 8, 1982.

By direction of the Administrator.

Domonick Onorato,

Associate Deputy Administrator for Information Resources Management.

Revision

- (1) Department of Medicine and Surgery, Environmental Medicine Office.
- (2) Agent Orange Registry Code Sheet.
- (3) VA Form 10-9009.
- (4) For every veteran receiving an initial Agent Orange examination at a VA health care facility.
- (5) All applicants for an Agent Orange examination.
- (6) 30,000 responses annually.
- (7) 7,500 hours.
- (8) Not applicable under 3504(H).

[FR Doc. 82-31258 Filed 11-15-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 221

Tuesday, November 16, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board.....	1
Commodity Futures Trading Commission.....	2, 3
Consumer Product Safety Commission.....	4
Federal Election Commission.....	5
Federal Reserve System.....	6, 7
Federal Mine Safety and Health Review Commission.....	8

1

CIVIL AERONAUTICS BOARD

TIME AND DATE: 10 a.m., November 18, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Commuter carrier fitness determination of Mid-State Helicopters, Inc. (Memo 1568, BDA)
3. Commuter carrier fitness determination of Manu'a Air Transport, Inc. (Memo 1497-A, BDA)
4. Docket 40963, Application of Air Illinois, Inc. to engage in scheduled interstate and overseas air transportation between all points in the United States, its territories and possessions. Air Illinois requested that its application be processed under show-cause procedures. (Memo 1559, BDA)
5. Docket EAS-645, Petition of the Commonwealth of Puerto Rico for Reconsideration of Order 82-3-25 revoking the guarantee of essential air service previously provided for Aguadilla, Puerto Rico. (Memo 333-H, BDA, OGC, OCCCA)
6. Docket 40147, Essential air service for Modesto, California. (BDA, OCCCA)
7. Docket EAS-773, Lima's appeal of BDA's determination not to designate the community as an eligible point under section 419(b). (Memo 1186-A, BDA, OCCCA, OGC)
8. Docket EAS-487, Essential air service determination for West Yellowstone, Montana. (Memo 735-E, BDA, OCCCA)
9. Docket 41018, Application of Republic Airlines, Inc., for an exemption to reduce service at Rhinelander, Wisconsin, on less than 90 days' notice. (Memo 1560, BDA, OCCCA)
10. Docket 40875 and EAS-590, Notice of Rio Airways to suspend service at Temple, Texas, and essential air service

determination for Temple. (Memo 1458-A, BDA, OCCCA)

11. Docket 41033, *Application of All Star Airlines, Order Disclaiming Jurisdiction and Reissuing Certificates.* (Memo 1573, OGC)

12. Amendment of Part 221 to include all exemptions from section 403. (OGC)

13. Docket 27114, *Motion of Pan American World Airways, Inc., for issuance of a declaratory order on employees' duties under labor protective provisions (in Pan American Trans World Airlines Route Exchange Agreement).* (Memo 144-A, OGC)

14. Dockets 38019 and 38961, *Wien Air Alaska Mainline and Bush Mail Rates Investigation; In the matter of Intra-Alaska Class Service Mail Rate.* (BIA)

15. Docket 38623, Agreement C.A.B. 28857 R-1 and R-2, IATA agreement proposing minor fare revisions affecting U.S. Pacific territories. (Memo 1564, BIA)

16. Docket 38623, Agreement C.A.B. 28851 R-1 through R-4, IATA agreements proposing U.S.-U.K. fares. (Memo 1571, BIA)

17. Docket 38623, Agreement C.A.B. 28866, IATA agreement proposing increases in ex-Finland minimum charges for cargo. (Memo 1572, BIA)

18. Docket 35634, Agreement C.A.B. 28855 R-1 through R-4, IATA agreement closing cargo rates over Mid Atlantic routes through September, 1983. (Memo 1561, BIA)

19. Docket 40611, Petition of Transamerica Airlines, Inc. for reconsideration of Order 82-8-82. (Memo 1359, BIA, OGC)

20. Docket, (formerly Docket 39711) Application of British Caledonian Airways Limited for amendment of its foreign air carrier permit to add Los Angeles, California as an additional carrier U.S. coterminal point on its existing route authorization. (Memo 1562, BIA, OGC, BALJ)

21. Docket 40588, Petitions for reconsideration of Board action in Order 82-9-15 granting South African Airways (SAA) scheduled Houston-Johannesburg exemption authority for a two-year period. (BIA, OGC)

22. Docket 40276, Application of Servicio de Carga Aerea, S.A. d.b.a. Central America Air Cargo (SERCA) for an initial foreign air carrier permit. (BIA, OGC, BALJ)

23. Docket 40797, Application of Air Florida, Inc., for amendment of its certificate of public convenience and necessity for Route 197-F (Miami-Helsinki) (Memo 1566, BIA, OGC, BALJ)

24. Report on Negotiations with the United Kingdom. (BIA)

25. Report on Negotiations with Scandinavia. (BIA)

26. Negotiations with Germany. (BIA)

STATUS:

1-23 Open

24-26 Closed

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1652-82 Filed 11-12-82; 3:48 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, November 30, 1982.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: New York Futures Exchange Contract Market Designation of New York Stock Exchange Composite Index.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1650-82 Filed 11-12-82; 3:47 pm]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, November 19, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1651-82 Filed 11-12-82; 3:47 pm]

BILLING CODE 6351-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, November 17, 1982.

LOCATION: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Electric Blanket Project*
The staff will brief the Commission on activities related to the electric blanket project.
2. *Toy Chests*
The Commission will consider its next step in the rulemaking proceeding to address the strangulation risk presented by Toy Chests.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, Room 342, 5401 Westbard Avenue, Bethesda, Maryland 20207; (302) 492-6800. For a recorded message containing the latest Agenda information, call (301) 492-5709.

[S-1648-82 Filed 11-12-82; 11:14 am]
BILLING CODE 6355-01-M

5

FEDERAL ELECTION COMMISSION

FEDERAL REGISTER NO. 1637;
PREVIOUSLY ANNOUNCED DATE AND TIME:
Thursday, November 18, 1982 at 10 a.m.

CHANGE IN MEETING: The following matter has been continued from the meeting of November 10, 1982:

Advisory Opinion 1982-50: Jon L. Shebel, Florida Breakfast and Lunch Bunch

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Public Information Officer; telephone 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S-1649-82 Filed 11-12-82; 12:23 pm]
BILLING CODE 6715-01-M

6

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: Approximately 12:30 p.m., Thursday, November 18, 1982, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: November 10, 1982.

James McAfee,
Associate Secretary of the Board.

[S-1646-82 Filed 11-10-82; 4:09 pm]
BILLING CODE 6210-01-M

7

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Thursday, November 18, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda:

1. Publication of notice inviting comment on an application by Hongkong and Shanghai Banking Corporation, Hong Kong; Kellett N.V., Curacao, Netherlands Antilles; HSBC Holdings B.V., Amsterdam, the Netherlands; and Marine Midland Banks, Inc., Buffalo, New York, to provide indirectly various services related to foreign exchange.

Discussion Agenda:

2. Proposed changes to the procedures of the Federal Reserve Banks regarding clearing balances.

3. Proposed 1982-1983 Fee Schedule for Automated Clearing House (ACH) services.

4. Proposed amendment to Regulation D (Reserve Requirements of Depository Institutions) to apply zero percent reserve requirements to \$2 million in reservable

liabilities at each depository institution.

5. Proposed participation in a survey to collect data on consumer finances.

6. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3884 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: November 10, 1982.

James McAfee,
Associate Secretary of the Board.

[S-1647-82 Filed 11-10-82; 4:16 pm]
BILLING CODE 6210-01-M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m., Wednesday, November 17, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

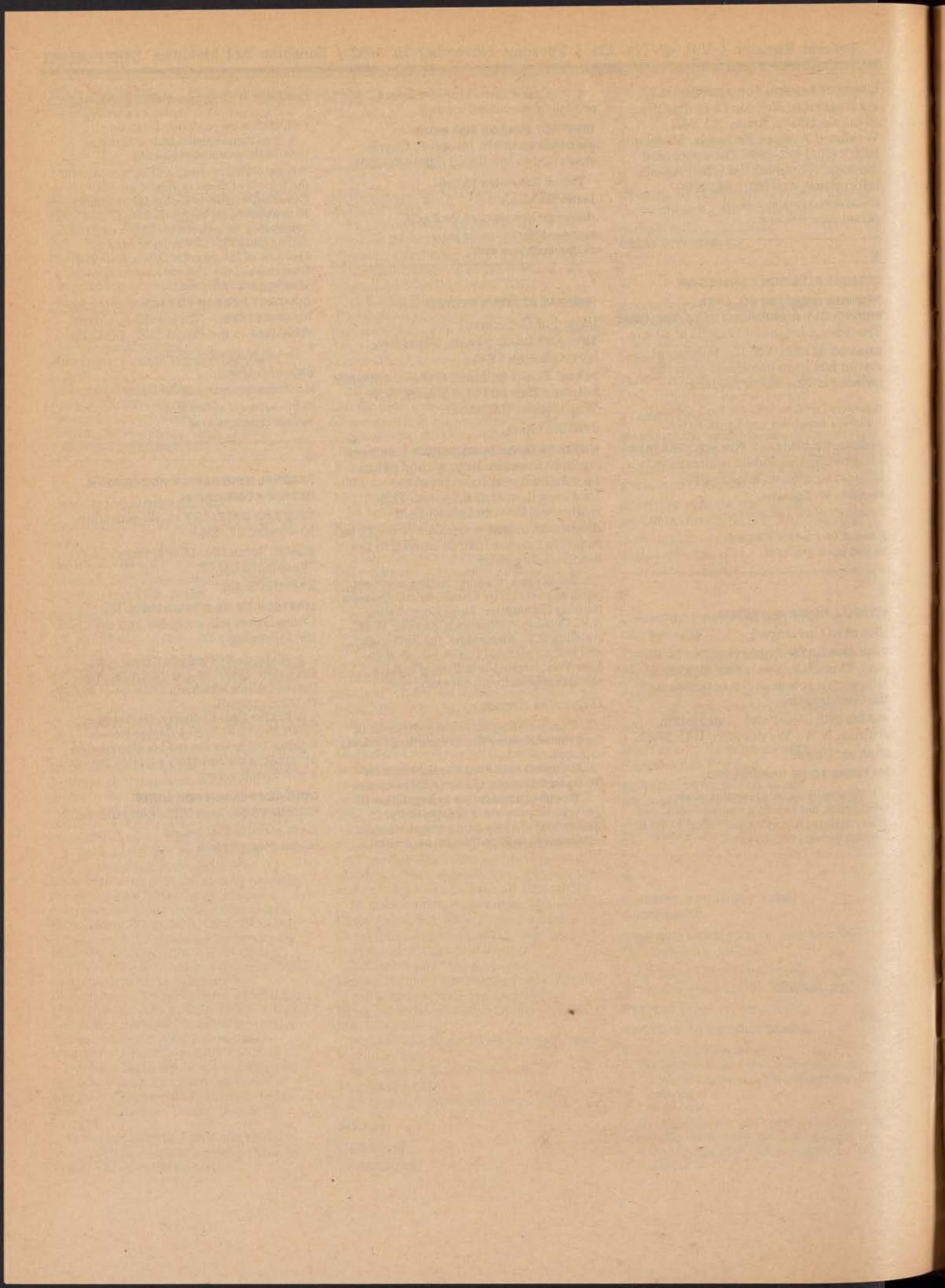
1. Alabama By-Products Corporation, Docket No. BARB 76-153 (IBMA 76-114). (Issues include whether a violation of 30 CFR 75.1725 occurred).

2. Kocher Coal Company, Docket Nos. PENN 80-174, 81-179(a). (Issues include whether the judge abused his discretion by not granting the Secretary's motion to vacate a withdrawal order).

CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen (202) 653-5632.

[S-1653-82 Filed 11-12-82; 3:48 pm]
BILLING CODE 6735-01-M



Federal Register

Tuesday
November 16, 1982

Part II

Department of Labor

Mine Safety and Health Administration

Wire Rope Standards

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, 57, 75 and 77

Wire Rope Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would update and clarify existing safety standards for the selection, use, examination and retirement of wire ropes used at coal and metal and nonmetal mines. It would establish uniform wire rope safety for all mines.

DATE: Written comments must be submitted on or before January 17, 1983.

ADDRESS: Send written comments to the Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235-1910.

SUPPLEMENTARY INFORMATION:**I. Background**

The use of safe wire rope is vital for the protection of miners who rely on hoists as personnel conveyances or who work nearby materials hoisted by wire ropes. Careful and conscientious attention to the initial selection and continual maintenance of wire rope is essential to prevent serious accidents. Failure of a wire rope or failure of an end attachment fastening the wire rope to either the hoist drum or the conveyance could result in death or serious injury.

The Mine Safety and Health Administration (MSHA) has separate safety standards for wire ropes used to hoist miners in coal mines (30 CFR Parts 75 and 77) and in metal and nonmetal mines (30 CFR Parts 55, 56 and 57). These standards contain requirements for the selection, use, inspection and retirement of wire ropes.

This proposed rule would clarify the wire rope standards in 30 CFR Parts 55, 56, 75 and 77, update them to accommodate state-of-the-art technology, reduce recordkeeping requirements where possible, and create separate but uniform wire rope standards for the entire mining community. The proposed standards would improve safety protection for miners. They would provide requirements from initial selection to timely removal of weakened rope or

attachments thus assuring the reliability of wire rope and wire rope attachments. Generally, MSHA's existing wire rope standards and select provisions of the American National Standards Institute's "American Standard for Wire Rope for Mines," ANSI M11.1-1980 form the basis for these proposals.

MSHA believes the hazards associated with the use of wire rope are essentially the same for all mining operations. For this reason, MSHA is proposing uniform wire rope standards for the entire mining industry. As a final rule, these standards would be codified separately for coal mining operations and for metal and nonmetal mining operations. MSHA specifically solicits comments on this approach to revising the wire rope standards.

The metal and nonmetal proposal would revise existing wire rope standards in 30 CFR 55.19, 56.19 and 57.19. The coal proposal would revise existing wire rope standards in 30 CFR 75.1401-1 and 77.1402-1, consistent with the holding in *Secretary of Labor v. Jim Walter Resources, Inc., and Cowin and Co., Inc.*, 3 FMSHRC 2488, 2 MSHC 1489 (1981). In this decision, the Federal Mine Safety and Health Review Commission held that 30 CFR 77.1903(b) is not a mandatory standard and therefore imposes no duty on mine operators. This standard incorporates by reference the American National Standards Institute's (ANSI) "Specifications for and Use of Wire Ropes for Mines," USAS M11.1-1960 or its latest revision (currently the 1980 ANSI standard). The Commission based its decision on the fact that § 77.1903(b) states that the ANSI standard is to be used only as a guide.

Because the same ANSI M11.1-1960 incorporation by reference also appears in the coal standards affecting underground mines (§ 75.1401-1) and those which apply to surface mines and surface areas of underground mines (§ 77.1402-1), MSHA's coal proposal would revise these standards by deleting the incorporations by reference and establishing specific minimum safety requirements. In this manner, coal operators would know the specific wire rope requirements that apply to their operations. In addition, the coal proposal would remove separate wire rope provisions for shaft and slope sinking operations (§ 77.1903(b)) and the wire rope standards for surface and underground mines would apply to these operations to assure safe wire rope practices at such operations.

The specific ANSI M11.1-1980 provisions MSHA has used in this proposal are cited in the section-by-section analysis.

II. Discussion and Summary of the Proposed Rule

The following section-by-section analysis discusses the proposed rules and their effect on existing wire rope safety standards.¹ The proposed rule contains provisions for the following safety requirements: Assuring that the strength of the rope is appropriate for its intended use; break-in procedures to adjust the rope to working conditions and for taking initial diameter measurements for subsequent evaluations of rope wear; provisions for wire rope examination; retirement criteria; requirements for end attachment retermination or removal; and use of proper sheave and drum groove radiuses.

Scope

The proposed scope statement would appear in §§ 55/56/57.19-20 and 75/77.1404. This new section states that the proposed standards would apply to hoisting persons or hoisting loads that may endanger the safety of persons.

Minimum Rope Strength

This proposed standard would appear in §§ 55/56/57.19-21 and 75/77.1404-1. It would aid in assuring that the strength of hoist rope is appropriate for its intended use. The standard would require that wire ropes, at the time of installation, meet minimum nominal strength values consistent with the specific hoisting applications. These values would be calculated by formulas which take into consideration the depth of the shaft, the equipment used for hoisting and a factor of safety. These formulas are derived from §§ 4.1.1 (winding drum rope), 4.2.1.2 (friction drum rope) and 4.4.1 (rotation resistant rope) of ANSI M11.1-1980.

The proposal would replace existing metal and nonmetal standards 55/56/57.19-21 and 55/56/57.19-53 and existing coal standards 75.1401-1, 77.1402-1 and 77.1903(b).

Initial Operation and Measurement

This proposed standard would appear in §§ 55/56/57.19-22 and 75/77.1404-2.

¹ Standards applicable to open pit metal and nonmetal mines are published in Part 55; standards applicable to sand, gravel, and crushed stone operations are published in Part 56; standards applicable to underground metal and nonmetal mines and their surface operations are published in Part 57; standards applicable to underground coal mines are published in Part 75; and standards applicable to surface coal mines and surface work areas of underground coal mines are published in Part 77. Standards that uniformly appear or are proposed to appear in 30 CFR Parts 55, 56 and 57, and 75 and 77 are referred to in this document as "55/56/57" and "75/77".

This is a new provision which would require a newly installed hoist rope to be operated for at least ten cycles through its full length prior to placement in service. Load and speed would be required to be increased with each cycle until maximum operating conditions are met. The initial cycle would begin with a light load at reduced speed, followed by increases in load and speed with each successive cycle. This procedure gradually adjusts a new wire rope to operating conditions. Preliminary operation of the rope under progressive loads and speeds allows the strands to become seated and initial stretching to occur. The break-in cycles also compact the strands and the core. These factors reduce the initial diameter of the rope slightly.

This proposal would also require measurement of the rope diameter after the minimum ten-cycle break-in procedure and before the rope is placed into service. The purpose of this proposed requirement is to establish a base line for comparison with subsequent rope diameter measurements to determine if rope diameter reduction has occurred. The proposal requires that measurements be made at least once in every third interval of the rope length. For example, an operator with a 1500-foot rope would comply with this requirement by taking a diameter measurement in the center of every third interval, or at 250 feet, 750 feet and 1250 feet. Because of their importance in the evaluation of wire rope wear, MSHA proposes that the person making these diameter measurements record the measurements and the date. This record would be required to be retained until the rope is retired from service. A simple dated log entry would satisfy this requirement.

The proposed ten-cycle break-in requirement is derived from § 3.3.3.(9) of ANSI M11.1-1980. MSHA believes this new provision is essential for meaningful evaluation of wire rope wear.

Daily and Six-Month Examinations

This proposed standard would appear in §§ 55/56/57.19-23 and 75/77.1404-3. It would require a daily visual examination of hoist ropes and their end attachments for wear, broken wires, structural damage, corrosion and adequacy of lubrication. This daily examination would be required only on days the hoist rope is used. Current coal standards require daily examination of all hoist equipment. Metal and nonmetal standards require daily inspection of hoist rope attachments and monthly inspection of the hoist rope. Hoist rope diameter measurements of

nondestructive tests (such as electromagnetic tests) would also be required at specific locations along the rope at six-month intervals. Visual examinations, measurements and nondestructive testing of hoist ropes provide early recognition of hazardous conditions which develop in a hoist rope.

At the completion of each daily examination, the person making the examination would be required to certify, by signature and date, that the examination has been made. If any wear, broken wires, structural damage or corrosion is present, or lubrication is inadequate, the person making the examination would be required to record the conditions and the date. The proposal would require certifications and records of daily examinations to be retained for one year. The person making the six-month diameter measurements or nondestructive tests would be required to record the measurements or test results and date the record. The proposal would require retention of these records until the wire rope is removed from service.

These proposed requirements are generally derived from §§ 3.11 and 4.6.1 of ANSI M11.1-1980 and existing standards 55/56/57.19-126, 55/56/57.19-131, 75.1400-3, 77.1403 and 77.1906.

Retirement Criteria

This proposed standard would appear in §§ 55/56/57.19-24 and 75/77.1404-4. It would require removal of wire rope from service when one or more specified conditions exist. These conditions include broken wires, diameter reduction, deterioration from corrosion, distortion of rope structure or heat damage. MSHA believes that such conditions, either alone or in combination, could cause rope failure.

These proposed removal criteria are generally derived from §§ 3.11 and 4.6.2 of ANSI M11.1-1980 and existing metal and nonmetal standards. The criterion for wire breaks in the valleys between strands in a wire rope, however, is derived from ANSI A10.5-1981, "Personnel Hoists," and the American Iron and Steel Institute's "Wire Rope Users Manual" (1981). Wire breaks in valleys between strands indicate abnormal conditions such as fatigue, breakage, or corrosion of other wires not readily visible. The proposal would replace existing retirement criteria in metal and nonmetal standards 55/56/57.19-128 and related requirements incorporated by reference in existing coal standards 75.1401-1, 77.1402-1 and 77.1903(b).

Load End Attachments

This proposed standard would appear in §§ 55/56/57.19-25 and 75/77.1404-5. It would prescribe methods of attaching conveyances to hoist ropes. Failure of the attachment or the rope in the immediate area of the attachment presents one of the most significant hazards to persons riding a conveyance.

Proposed paragraph (a) would require wire rope to be attached to the load by the thimble-and-clip method, the socketing method or other method that develops a holding power of at least 80 percent of the nominal strength of the rope. Except for rope terminations where use of other materials is a design feature, zinc (spelter) would be required for use in socketing wire ropes. The proposal would prohibit the use of end attachment methods using splicing or swaged fittings. Swaged fittings are made by compressing a steel sleeve over the rope with a hydraulic press. In this proposed standard, the term "design feature" means either the manufacturer's original design or a design approved by a registered professional engineer.

Proposed paragraph (b) would require U-bolt clips to be placed on the rope with the U-bolts bearing upon the short or "dead" end of the rope. In addition, Table 2 in the proposed standard contains requirements for the number of clips, spacing between clips and amount of torque to be applied in making end attachments with either U-bolt or fist grip (double saddle) clips. Proposed Table 2 is derived from Table B1 in Appendix B of ANSI M11.1-1980.

This proposed section would allow alternative methods of hoist rope attachment if such methods develop a holding power of 80 percent of the nominal strength of the rope. This alternative criterion will allow the use of new and improved attachment methods as the state of the art progresses. It would provide for flexibility in methods used to attach the rope to conveyances, while maintaining the level of safety provided by standard methods of end attachment.

This proposed standard is derived from § 3.8 of ANSI M11.1-1980 and existing metal and nonmetal and coal requirements. It would replace standards 55/56/57.19-24 and 77.1907(a) which contain existing load end attachment requirements.

Drum End Attachment

This proposed standard would appear in §§ 55/56/57.19-26 and 75/77.1404-6. It would require hoist ropes to be attached at the drum by one of the following methods: by clips after making one full turn around a spoke; by clips after

making one full turn around the shaft if the shaft is fixed to the drum; or by properly assembled anchor bolts, clamps or wedges, if these devices are a design feature of the hoist drum. The term "design feature" in this standard means either the manufacturer's original design or design approved by a registered professional engineer.

The proposed methods would not allow attachment of wire rope to a shaft that can rotate independently of the drum because the rope could rub and wear on the shaft, creating a hazardous condition. In addition, these methods would not permit the use of set screws because they could seriously damage the rope.

After attachment to the drum, the hoist rope would be required to have a minimum of three full turns on the drum when the rope is extended to its maximum working length. This minimizes strain on the drum attachment.

This proposed standard also would require that whenever a length of a hoist rope wound in multiple layers is cut off at the drum end, the length of rope cutoff must not be a whole number multiple of the circumference of the drum. If the cutoff were whole number multiple of the circumference, the wire rope's contact points and stress areas would remain the same and accelerate wear. A cutoff which is a fraction multiple of the circumference of the drum distributes wear by changing contact points and critical stress areas.

This proposed standard reflects provisions in §§ 3.5.1 and 3.8 of ANSI M11.1-1980 and would replace presently existing rope-to-drum requirements in standards 55/56/57.19-22, 75.1403-3(c) and 77.1907(d) and cutoff procedures in standards 55/56/57.19-125.

End Attachment Retermination

This proposed standard would appear in §§ 55/56/57.19-27 and 75/77.1404-7. It would require that damaged rope be cut off and the hoist rope refastened at an attachment where there is more than one broken wire, improper installation, evidence of corrosion, or indication of slippage of the attachment.

The attachments and the rope near the attachments are continually subject to bending, vibration and other stresses making them potentially the weakest part of the hoist rope. It is therefore critical that corrective action be taken to assure continued strength of the rope. These proposed provisions would require prompt corrective action when the attachment or hoist rope is found to be defective. This proposed standard would replace standards 55/56/57.19-124 and 55/56/57.19-125 which provide

for periodic cutoff of the wire rope at load and drum ends regardless of the rope condition. This proposed standard also would replace similar provisions incorporated in the coal mine wire rope standards.

End Attachment Replacement

This proposed standard would appear in §§ 55/56/57.19-28 and 75/77.1404-8. It would require appear replacement of cracked, deformed or excessively worn hoist rope attachments. Prompt replacement of unsafe attachments is a prudent practice necessary to safeguard the overall integrity of the hoisting system.

Groove Radius

This proposed standard would appear in §§ 55/56/57.19-29 and 75/77.1404-9. It would require sheave and drum grooves that have a radius less than 0.5125 times the nominal rope diameter to be reconditioned or replaced. Maximum allowable wear values for sheave and drum grooves assure proper rope contact and thereby reduce wear on the rope. This requirement is derived from § 3.4 of ANSI M11.1-1980. This standard would replace existing drum and sheave groove standards 55/56/57.19-40 for metal and nonmetal mines.

Other Existing Rules Affected

Standard 75.1400 presently sets out a requirement for the strength of hoisting cable (hoist rope). Under the proposed rule, this requirement would be eliminated because it would duplicate requirements for minimum wire rope strength set out in proposed standard 75.1404-1. The proposed revision to §75.1400 would remove the following language enclosed in brackets:

* * * Every hoist-handling platforms, cages, or other devices used to transport persons shall be equipped with brakes capable of stopping the fully loaded platform, cage, or other device; [with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device; and have a proper margin of safety.] * * *

Nonsubstantive editorial changes also have been made in the proposed revision to this standard. These changes are intended to provide greater clarity by reorganizing the existing standard into separate paragraphs.

The proposed rule also contains other nonsubstantive changes including heading changes and redesignations of existing standards.

MSHA proposes to revoke standards 75.1401-2 and 77.1403(d) which require MSHA approval of any change to a hoist or elevator that affects its rated capacity. These standards duplicate existing standards 75.1401 and 77.1402

which require that hoists have rated capacities consistent with the loads handled. In addition, the proposed rule would revise standards 75.1401 and 77.1402 to delete the references to wire rope to avoid duplication.

The proposed rule would revoke standards 55/56/57.19-123 and 77.1403(e) that require hoist rope lubrication. The Agency recognizes the need for lubrication and has included a requirement that ropes be examined daily for adequacy of lubrication. However, MSHA believes the methods and practices of proper wire rope lubrication may vary depending upon the particular mine operation and the manufacturer's recommendations. Thus, the Agency proposes to allow each operation to determine its own lubrication needs. In inspecting each mine, MSHA would check for the effects of improper lubrication, such as corrosion.

Consistent with the goal of the Paperwork Reduction Act to minimize recordkeeping requirements, MSHA proposes the following changes to its hoist examination recordkeeping requirements. The proposed rule would remove existing signing and countersigning provisions in standards 75.1400-4, 77.1403(b) and 77.1906(c). These standards require hoist inspection records to be countersigned by responsible company officials after the person making the inspection has signed them. MSHA believes that safe wire rope and hoisting practices, as would be required by the proposed rule and existing regulations, can be attained without signing and countersigning requirements. The proposed rule would revise the recordkeeping provisions in standards 55/56/57.19-121, 75.1400-4, 77.1403(b), and 77.1906(c) by allowing certification that an inspection has been done if no specified or otherwise unsafe conditions are present. A record would still be required if any unsafe conditions are present and the record would be required to be dated. The proposal would also revise these standards to require that certifications and records of hoist examinations be retained for one year. Metal and nonmetal standards currently require hoist records to be retained for three years; coal standards do not specify a retention period. MSHA believes that a one-year period for retention of certifications and records for hoist equipment would provide an adequate basis for evaluating compliance with the hoist examination requirements. Finally, the proposed rule would revoke standard 75.1807 which requires that results of hoist examinations be recorded in an

approved book. MSHA does not believe that there is a need to prescribe the form of record which an operator must keep. A review of current industry practice reveals that examinations of all hoist equipment, including the wire rope, is generally done at the same time, resulting in one record. The proposed revisions of these hoist examination recordkeeping requirements would not alter inspection responsibilities of mine operators.

The proposed rule would revoke metal and nonmetal standards 55/56/57.19-39 (D/d drum and sheave tread ratios). MSHA believes the proposed daily examination (55/56/57.19-23) and more comprehensive retirement criteria (55/56/57.19-24) would provide an equivalent safety factor and assure removal of worn wire rope before a hazard arises and thereby satisfy the intent of standards 55/56/57.19-39.

The proposed rule would revoke coal standards 75.1403-3(b) and 77.1907(b) that require bridle chains or cables to be connected securely between ropes and conveyances. As with many secondary attachments, bridle chain attachments can induce stress concentrations on the rope. MSHA believes that the proposed standards that address retermination of end attachments would assure safe connection of the conveyance to the wire rope.

III. Drafting Information

The principal persons responsible for preparing this proposed rule are: Donald Hutchinson, Technical Support, MSHA; Fred Williams and Dale Cavanaugh, Coal Mine Safety and Health, MSHA; Paul Talley, Metal and Nonmetal Safety and Health, MSHA; Richard Zeutenhorst, Office of Standards, Regulations and Variances, MSHA; Bernard McGuire and M. Peter Garcia, Office of the Solicitor, Department of Labor

IV. Executive Order 12291 and Regulatory Flexibility Act

Under Executive Order 12291, MSHA has prepared an initial analysis to identify potential costs and benefits associated with proposed changes to its safety standards for wire ropes in coal and metal and nonmetal mines. The Agency has incorporated this analysis into the Initial Regulatory Flexibility Analysis required by the Regulatory Flexibility Act. In this analysis, summarized below, MSHA has determined that the proposed rule would not result in major cost increases nor have an effect of \$100 million or more on the economy. The rule does not meet the criteria for a major rule and therefore a

Regulatory Impact Analysis is not necessary.

The Regulatory Flexibility Act requires that in developing regulatory proposals, agencies should evaluate and include, wherever possible, compliance alternatives that minimize any adverse impact on small business entities. Because the practices of safe wire rope use do not vary from large mines to small mines, the Agency has not proposed exemption of small mines from any provisions of the proposed rule. However, MSHA's proposal would clarify compliance responsibilities by removal of incorporations by reference, adopt performance-oriented standards for end attachments and rope retirement, and keep recordkeeping to the minimum necessary.

In the following summary of the Initial Regulatory Flexibility Analysis, MSHA has compared the costs and benefits associated with the proposed changes with the costs of existing requirements. A copy of the analysis is available upon request.

MSHA estimates that the annual compliance costs associated with the proposed wire rope requirements would amount to \$648,000. This represents a net increase of \$59,000 over current compliance costs. This is not a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. The proposed regulations would affect about 450 mining operations. Of these, 300 are metal and nonmetal mines and 150 are coal mines. MSHA estimates that approximately 250 of these mines are small business entities. Small business entities are defined as mines with fewer than 20 employees. The Agency requests comments on this definition of small business entities for the purposes of complying with the Regulatory Flexibility Act.

In developing cost estimates, MSHA has taken into consideration industry-wide safety practices. Current compliance costs are related to the following requirements: inspection and recordkeeping; equipment repair and replacement; and retirement of wire ropes. In calculating the costs of the proposed rule, the Agency considered the following new or increased requirements: initial rope measurements for all mines; an increase from monthly to daily inspection of wire ropes at metal and nonmetal mines; semiannual inspections of the wire rope by measurement or nondestructive testing at coal mines; and more detailed retirement criteria. MSHA projects reductions in costs as a result of proposed revocation of countersigning

requirements for hoist records at coal mines; replacement of periodic cutoff requirements by requirements linked to the condition of the rope; and removal of sheave to rope diameter requirements. The proposed revocation of the countersigning provisions would also result in reduced recordkeeping requirements at coal mines. In addition, new provisions for drum and load end attachments would allow operators greater flexibility in meeting compliance responsibilities with state-of-the-art equipment and procedures.

In the proposed rule, MSHA has reorganized, updated and clarified existing provisions. The Agency has also proposed the existing provisions that would duplicate the proposal. MSHA has limited recordkeeping and certification requirements to the minimum necessary to assure effective compliance; simple log entries could be used to satisfy these requirements. Based upon Agency experience and current industry practice, MSHA believes that the inspection, recordkeeping and certification requirements for wire ropes can be performed in conjunction with other hoist requirements.

The primary benefit of the proposed rule is the protection that the standards would provide to miners who rely on hoists as personnel conveyances or who work nearby materials hoisted by wire ropes. Wire rope failure can result in injuries and fatalities. The proposal would provide uniform protection for all miners whose lives often depend on the integrity of a wire rope.

The proposed rule contains performance oriented provisions that include technological advancements. These provisions would permit operators greater compliance flexibility and reduce the need for operators to request variances from the Agency for the use of state-of-the-art equipment. The proposal would also replace incorporations by reference with specific requirements to clarify compliance responsibilities for coal mine operators.

V. Paperwork Reduction Act

The recordkeeping requirements in these proposals are the minimum required to assure safety of miners. MSHA has submitted these requirements to the Office of Management and Budget for review in accordance with section 3504(h) of the Paperwork Reduction Act.

VI. Federal Register Indexing of Terms

This rule would be indexed in the Federal Register Thesaurus of Indexing Terms under the following heading:

List of Subjects in 30 CFR Part 55, 56, 57, 75 and 77

Mine safety and health, Hoisting, Wire rope.

Dated: November 9, 1982.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

This proposed rule would amend Parts 55, 56, 57, 75 and 77, Chapter I, Title 30 of the Code of Federal Regulations as set forth below.

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

Part 55, Subchapter N, Chapter I, Title 30 of the Code of Federal Regulations is proposed to be amended as follows.

1. The authority citation for the following revisions to Part 55 is:

Authority: Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-171 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811).

2. It is proposed to remove the word "Nonmetallic" and substitute "Nonmetal" in the headings for Part 55 and Subchapter N.

§ 55.19 [Amended]

3. It is proposed to remove the words "Man hoisting" and substitute "Hoisting" in the headings for § 55.19.

4. It is proposed to redesignate standard 55.19-26 as 55.19-30.

5. It is proposed to redesignate standard 55.19-22 as 55.19-26.

6. It is proposed to redesignate standard 55.19-24 as 55.19-25.

7. It is proposed to remove reserved numbers 55.19-27 through 55.19-34.

8. It is proposed to add a new standard 55.19-20 as follows:

55.19-20 *Scope.* The requirements in standards 55.19-21 through 55.19-34 shall apply to wire ropes used for hoisting persons or hoisting loads that may endanger the safety of persons.

9. It is proposed to revise standard 55.19-21 as follows:

55.19-21 *Minimum Rope Strength.* At installation, the nominal strength (manufacturer's published catalog strength) of wire ropes used for hoisting shall meet the minimum values obtained by the following formulas:

(a) *Winding Drum Rope*
Rope lengths less than 3000 feet—
Minimum Value = Static Load x
(7.0 - 0.001L)

Rope lengths 300 feet or greater—
Minimum Value = Static Load x 4.0

(b) *Friction Drum Ropes*

(1) *Friction Hoist Ropes*
Rope lengths less than 400 feet—
Minimum Value = Static Load x
(7.0 - 0.0005L)

Rope lengths 400 feet or greater—
Minimum Value = Static Load x 5.0

(2) *Tail (Balance Ropes)*
Minimum Value = Weight of Rope x 7.0

(3) *Guide and Rubbing Ropes*
Minimum Value = Weight of Rope x 5.0

(c) *Rotation Resistant Rope*
Minimum Value = Static Load x 10.0
Where L equals maximum suspended rope length in feet.

10. It is proposed to add a new standard 55.19-22 as follows:

55.19-22 *Initial Operation and Measurement.* Prior to placement in service, a newly installed hoist rope shall be operated for at least ten cycles through its full length, starting with a light load at reduced speed. Load and speed shall be increased with each cycle until maximum operating conditions are met. Immediately following this procedure, the rope diameter shall be measured at least once in every third interval of length to establish a base line for subsequent measurements. A record of the measurements and the date shall be made by the person taking the measurements. This record shall be retained until the rope is retired from service.

11. It is proposed to redesignate and to revise standard 55.19-126 as follows:

55.19-23 *Daily and Six-month Examinations.* (a) A daily visual examination of hoist ropes and their attachments shall be made for wear, broken wires, structural damage, corrosion, and inadequate lubrication. Special attention shall be given to stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers and at change-of-layer regions. This examination is required only on days the hoist rope is used.

(b) At the completion of each daily examination, the person making the examination shall certify, by signature and date, that the examination has been made. If any of the conditions listed in paragraph (a) above are present, the person conducting the examination shall make a record of the conditions and the date. Certifications and records of daily examinations shall be retained for one year.

(c) Every six months, hoist rope diameter measurements or nondestructive tests shall be made at the following locations:

- (1) Wherever wear is evident;
- (2) Where the hoist rope rests on sheaves at regular stopping points;
- (3) Where the hoist rope leaves the drum at regular stopping points; and
- (4) At drum crossover and change-of-layer regions.

(d) The person making the measurements or nondestructive tests, as required in paragraph (c) above, shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

12. It is proposed to redesignate and to revise standard 55.19-128 as follows:

55.19-24 *Retirement Criteria.* Unless the damage or deterioration is removed by cutoff, hoist ropes shall be removed from service when any of the following conditions occur:

- (a) Six randomly distributed broken wires in one rope lay length or three broken wires in one strand in one rope lay length (Snagged, nicked or severely bent wires shall count as broken wires.);
- (b) More than one broken wire in the valley between strands in one rope lay length;
- (c) A rapid increase in the number of broken wires;
- (d) A loss of more than one-third the original diameter of the outer wires;
- (e) Rope deterioration from corrosion;
- (f) Distortion of the rope structure;
- (g) Heat damage from any source;
- (h) A reduction in rope diameter that exceeds the values in Table 1; or
- (i) Broken wires and diameter reductions that in combination create a hazardous condition.

TABLE 1.—ROPE DIAMETER REDUCTION (IN INCHES)

Nominal rope diameter	Maximum allowable reduction of base-line diameter	
	Fraction	Decimal
1/16 to 1/8	1/16	0.031
1/8 to 1/4	1/16	0.047
1/4 to 3/8	1/16	0.063
3/8 to 1/2	1/16	0.078
1/2 or greater	1/8	0.094

13. It is proposed to revise redesignated standard 55.19-25 as follows:

55.19-25 *Load End Attachments.* (a) Hoist ropes shall be attached to the load by the thimble-and-clip method, the socketing method, or other method that develops at least 80 percent of the nominal strength of the rope. Methods using splices or swaged fittings are prohibited. Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) Wire rope clips shall be installed according to Table 2. U-bolt clips shall be placed on the rope with the U-bolts bearing upon the short or "dead" end of the rope.

TABLE 2—WIRE-ROPE CLIPS

Clip size (inches)	Minimum number of clips	Center to center clip spacing (inches)	Torque ¹ (foot pounds)	
			U-bolt	Fist grip
1/2	3	5 1/2	85	85
5/8	3	6	95	130
3/4	3	6	95	130
7/8	4	6	130	225
1	4	6 1/2	225	225
1 1/8	5	6 1/2	225	360
1 1/4	6	7 1/2	360	360
1 1/2	7	7 1/2	360	500
1 3/4	7	8	360	500

TABLE 2—WIRE-ROPE CLIPS—Continued

Clip size (inches)	Minimum number of clips	Center to center clip spacing (inches)	Torque ¹ (foot pounds)	
			U-bolt	Fist grip
1½	7	8½	430	
1¾	7	8½	590	
2	8	10½	750	
2¼	8	10½	750	
2½	9	10½	750	
2¾	10	11½	750	
3	10	11½	1,200	

¹ Threads not lubricated.

Note.—The number of clips shown in Table 2 is based upon using regular or lang lay wire rope, 6 x 19 class or 6 x 37 class, fiber core or independent wire rope core (IWRC), improved plow steel (IPS) or extra improved plow steel (EIP). If seale construction or similar large-outer-wire-type construction in the 6 x 19 class is used for sizes one inch in diameter and larger, add at least one additional clip.

The number of clips shown in Table 2 also applies to right regular lay wire rope, 8 x 19 class, fiber core, IPS, sizes 1½ inch and smaller; and the right regular lay wire rope, 18 x 7 class fiber core, IPS or EIP, sizes 1½ inch and smaller.

14. It is proposed to revise redesignated standard 55.19-26 as follows:

55.19-26 *Drum End Attachment.* (a) The hoist rope shall be attached—

(1) Securely by clips after making one full turn around the drum spoke;

(2) Securely by clips after making one full turn around the shaft, if the drum is fixed to the shaft; or

(3) By properly assembled anchor bolts, clamps or wedges, if provided as a design feature of the hoist drum. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) The hoist rope shall have a minimum of three full turns on the drum when the rope is extended to its maximum working length.

(c) Whenever a length of a hoist rope wound in multiple layers is cut off at the drum end, the length of rope cut off shall not be a whole number multiple of the circumference of the drum.

15. It is proposed to redesignate and to revise standard 55.19-124 as follows:

55.19-27 *End Attachment Retermination.* Damaged or deteriorated hoist rope shall be removed by cutoff and the rope reterminated where there is—

- More than one broken wire at an attachment;
- Improper installation of an attachment;
- Slippage at an attachment; or
- Evidence of corrosion at an attachment.

16. It is proposed to add a new standard 55.19-28 as follows:

55.19-28 *End Attachment Replacement.* Hoist rope attachments shall be replaced when cracked, deformed or excessively worn.

17. It is proposed to redesignate and to revise standard 55.19-40 as follows:

55.19-29 *Groove Radius.* Sheave and drum grooves that have a radius less than 0.5125 times the nominal rope diameter shall be reconditioned or replaced.

18. It is proposed to revoke standard 55.19-39.

19. It is proposed to revoke standard 55.19-53.

20. It is proposed to revise standard 55.19-121 as follows:

55.19-121. At the time of completion, the person performing inspections, tests, and maintenance of shafts and hoisting equipment required in standard 55.19-120 shall certify, by signature and date, that they have been done. A record of any part that is not functioning properly shall be made and dated. Certifications and records shall be retained for one year.

21. It is proposed to revoke standard 55.19-123.

22. It is proposed to revoke standard 55.19-125.

23. It is proposed to revoke standard 55.19-131.

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

Part 56, Subchapter N, Chapter I, Title 30 of the Code of Federal Regulations is proposed to be amended as follows.

1. The authority citation for the following revisions to Part 56 is:

Authority: Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811).

2. It is proposed to delete the word "Nonmetallic" and substitute "Nonmetal" in the headings for Part 56.

§ 56.19 [Amended]

3. It is proposed to delete the words "Man hoisting" and substitute "Hoisting" in the headings for § 56.19.

4. It is proposed to redesignate standard 56.19-26 as 56.19-30.

5. It is proposed to redesignate standard 56.19-22 as 56.19-26.

6. It is proposed to redesignate standard 56.19-24 as 56.19-25.

7. It is proposed to delete reserved numbers 56.19-27 through 56.19-34.

8. It is proposed to add a new standard 56.19-20 as follows:

56.19-20 *Scope.* The requirements in standards 56.19-21 through 56.19-34 shall apply to wire ropes used for hoisting persons or hoisting loads that may endanger the safety of persons.

9. It is proposed to revise standard 56.19-21 as follows:

56.19-21 *Minimum Rope Strength.* At installation, the nominal strength (manufacturer's published catalog strength) of wire ropes used for hoisting shall meet the minimum values obtained by the following formulas:

(a) Winding Drum Rope
Rope lengths less than 3000 feet—
Minimum Value = Static Load x (7.0-0.001L)

Rope lengths 3000 feet or greater—
Minimum Value = Static Load x 4.0

(b) Friction Drum Ropes

(1) Friction Hoist Ropes
Rope lengths less than 4000 feet—
Minimum Value = Static Load x (7.0-0.0005L)

Rope lengths 4000 feet or greater—
Minimum Value = Static Load x 5.0

(2) Tail (Balance Ropes)
Minimum Value x Weight of Rope x 7.0

(3) Guide and Rubbing Ropes
Minimum Value = Weight of Rope x 5.0

(c) Rotation Resistant Rope
Minimum Value = Static Load x 10.0

Where L equals maximum suspended rope length in feet.

10. It is proposed to add a new standard 56.19-22 as follows:

56.19-22 *Initial Operation and Measurement.* Prior to placement in service, a newly installed hoist rope shall be operated for at least ten cycles through its full length, starting with a light load at reduced speed. Load and speed shall be increased with each cycle until maximum operating conditions are met. Immediately following this procedure, the rope diameter shall be measured at least once in every third interval of length to establish a base line for subsequent measurements. A record of the measurements and the date shall be made by the person taking the measurements. This record shall be retained until the rope is retired from service.

11. It is proposed to redesignate and to revise standard 56.19-126 as follows:

56.19-23 *Daily and Six-Month Examinations.* (a) A daily visual examination of hoist ropes and their attachments shall be made for wear, broken wires, structural damage, corrosion, and inadequate lubrication. Special attention shall be given to stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers and at change-of-layer regions. This examination is required only on days the hoist rope is used.

(b) At the completion of each daily examination, the person making the examination shall certify, by signature and date, that the examination has been made. If any of the conditions listed in paragraph (a) above are present, the person conducting the examination shall make a record of the conditions and the date. Certifications and records of daily examinations shall be retained for one year.

(c) Every six months, hoist rope diameter measurements or nondestructive tests shall be made at the following locations:

- Wherever wear is evident;
- Where the hoist rope rests on sheaves at regular stopping points;
- Where the hoist rope leaves the drum at regular stopping points; and
- At drum crossover and change-of-layer regions.

(d) The person making the measurements or nondestructive tests, as required in paragraph (c) above, shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

12. It is proposed to redesignate and to revise standard 56.19-128 as follows:

56.19-24 *Retirement Criteria.* Unless the damage or deterioration is removed by cutoff, hoist ropes shall be removed from service when any of the following conditions occur:

(a) Six randomly distributed broken wires in one rope lay length or three broken wires in one strand in one rope lay length (Snagged, nicked or severely bent wires shall count as broken wires.);

(b) More than one broken wire in the valley between strands in one rope lay length;

(c) A rapid increase in the number of broken wires;

(d) A loss of more than one-third the original diameter of the outer wires;

(e) Rope deterioration from corrosion;

(f) Distortion of the rope structure;

(g) Heat damage from any source;

(h) A reduction in rope diameter that exceeds the values in Table 1; or

(i) Broken wires and diameter reductions that in combination create a hazardous condition.

TABLE 1—ROPE DIAMETER REDUCTION (IN INCHES)

Nominal rope diameter	Maximum allowable reduction of base-line diameter	
	Fraction	Decimal
1/8 to 1/4	1/32	0.031
1/4 to 1/2	1/16	0.047
1/2 to 3/4	1/8	0.063
3/4 to 1	3/32	0.078
1 or greater	1/8	0.094

13. It is proposed to revise redesignated standard 56.19-25 as follows:

56.19-25 *Load End Attachments.* (a) Hoist ropes shall be attached to the load by the thimble-and-clip method, the socketing method, or other method that develops at least 80 percent of the nominal strength of the rope. Methods using splices or swaged fittings are prohibited. Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) Wire rope clips shall be installed according to Table 2. U-bolt clips shall be placed on the rope with the U-bolts bearing upon the short or "dead" end of the rope.

TABLE 2—WIRE ROPE CLIPS

Clip size (inches)	Minimum number of clips	Center to center clip spacing (inches)	Torque ¹ (foot pounds)	
			U-bolt	Fist grip
1/8	3	5 1/2	65	65
1/4	3	6	95	130

TABLE 2—WIRE ROPE CLIPS—Continued

Clip size (inches)	Minimum number of clips	Center to center clip spacing (inches)	Torque ¹ (foot pounds)	
			U-bolt	Fist grip
1/8	3	6	95	130
1/4	4	6	130	225
1/2	4	6 1/2	225	225
1	5	6 1/2	225	225
1 1/2	6	6 1/2	225	360
1 3/4	6	7	360	360
2	7	7 1/2	360	500
2 1/2	7	8	360	500
3	7	8 1/2	430	.....
3 1/2	7	8 1/2	590	.....
4	8	10 1/2	750	.....
4 1/2	8	10 1/2	750	.....
5	9	10 1/2	750	.....
5 1/2	10	11 1/2	750	.....
6	10	11 1/2	1,200	.....

¹Threads not lubricated.

Note.—The number of clips shown in Table 2 is based upon using regular or lang lay wire rope, 6 x 19 class or 6 x 37 class, fiber core or independent wire rope core (IWRC), improved plow steel (IPS) or extra improved plow steel (EIP). If seal construction or similar large-outer-wire-type construction in the 6 x 19 class is used for sizes one inch in diameter and larger, add at least one additional clip.

The number of clips shown in Table 2 also applies to right regular lay wire rope, 8 x 19 class, fiber core, IPS, sizes 1 1/2 inch and smaller; and the right regular lay wire rope, 18 x 7 class fiber core, IPS or EIP, sizes 1 1/2 inch and smaller.

14. It is proposed to revise redesignated standard 56.19-26 as follows:

56.19-26 *Drum End Attachment.* (a) The hoist rope shall be attached—

(1) Securely by clips after making one full turn around the drum spoke;

(2) Securely by clips after making one full turn around the shaft, if the drum is fixed to the shaft; or

(3) By properly assembled anchor bolts, clamps or wedges, if provided as a design feature of the hoist drum. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) The hoist rope shall have a minimum of three full turns on the drum when the rope is extended to its maximum working length.

(c) Whenever a length of a hoist rope wound in multiple layers is cut off at the drum end, the length of rope cut off shall not be a whole number multiple of the circumference of the drum.

15. It is proposed to redesignate and to revise standard 56.19-124 as follows:

56.19-27 *End Attachment Retermination.* Damaged or deteriorated hoist rope shall be removed by cutoff and the rope reterminated where there is—

(a) More than one broken wire at an attachment;

(b) Improper installation of an attachment;

(c) Slippage at an attachment; or

(d) Evidence of corrosion at an attachment.

16. It is proposed to add a new standard 56.19-28 as follows:

56.19-28 *End Attachment Replacement.* Hoist rope attachments shall be replaced when cracked, deformed or excessively worn.

17. It is proposed to redesignate and to revise standard 56.19-40 as follows:

56.19-29 *Groove Radius.* Sheave and drum grooves that have a radius less than 0.5125 times the nominal rope diameter shall be reconditioned or replaced.

18. It is proposed to revoke standard 56.19-39.

19. It is proposed to revoke standard 56.19-53.

20. It is proposed to revise standard 56.19-121 as follows:

56.19-121. At the time of completion, the person performing inspections, tests, and maintenance of shafts and hoisting equipment required in standard 56.19-120 shall certify, by signature and date, that they have been done. A record of any part that is not functioning properly shall be made and dated. Certifications and records shall be retained for one year.

21. It is proposed to revoke standard 56.19-123.

22. It is proposed to revoke standard 56.19-125.

23. It is proposed to revoke standard 56.19-131.

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

Part 57, Subchapter N, Chapter I, Title 30 of the Code of Federal Regulations is proposed to be amended as follows.

1. The authority citation for the following revisions to Part 57 is:

Authority: Sec. 101 of Federal Mine Safety and Health Act of 1977, Pub. L. 95-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811).

2. It is proposed to delete the word "Nonmetallic" and substitute "Nonmetal" in the headings for Part 57.

§ 57.19 [Amended]

3. It is proposed to delete the words "Man hoisting" and substitute "Hoisting" in the headings for § 57.19.

4. It is proposed to redesignate standard 57.19-26 as 57.19-30.

5. It is proposed to redesignate standard 57.19-22 as 57.19-26.

6. It is proposed to redesignate standard 57.19-24 as 57.19-25.

7. It is proposed to delete reserved numbers 57.19-27 through 57.19-34.

8. It is proposed to add a new standard 57.19-20 as follows:

57.19-20 *Scope.* The requirements in standards 57.19-21 through 57.19-34 shall apply to wire ropes used for hoisting persons or hoisting loads that may endanger the safety of persons.

9. It is proposed to revise standard 57.19-21 as follows:

57.19-21 *Minimum Rope Strength.* At installation, the nominal strength (manufacturer's published catalog strength) of wire ropes used for hoisting shall meet the minimum values obtained by the following formulas:

(a) *Winding Drum Rope*
Rope lengths less than 3000 feet—
Minimum Value = Static Load x (7.0-0.001L)

Rope lengths 3000 feet or greater—
Minimum Value = Static Load x 4.0

(b) *Friction Drum Ropes*

(1) *Friction Hoist Ropes*

Rope lengths less than 4000 feet—
Minimum Value = Static Load x (7.0-0.0005L)

Rope lengths 4000 feet or greater—
Minimum Value = Static Load x 5.0

(2) *Tail (Balance Ropes)*

Minimum Value = Weight of Rope x 7.0

(3) *Guide and Rubbing Ropes*

Minimum Value = Weight of Rope x 5.0

(c) *Rotation Resistant Rope*

Minimum Value = Static Load x 10.0

Where L equals maximum suspended rope length in feet.

10. It is proposed to add a new standard 57.19-22 as follows:

57.19-22 *Initial Operation and Measurement.* Prior to placement in service, a newly installed hoist rope shall be operated for at least ten cycles through its full length, starting with a light load at reduced speed. Load and speed shall be increased with each cycle until maximum operating conditions are met. Immediately following this procedure, the rope diameter shall be measured at least once in every third interval of length to establish a base line for subsequent measurements. A record of the measurements and the date shall be made by the person taking the measurements. This record shall be retained until the rope is retired from service.

11. It is proposed to redesignate and to revise standard 57.19-126 as follows:

57.19-23 *Daily and Six-Month*

Examinations. (a) A daily visual examination of hoist ropes and their attachments shall be made for wear, broken wires, structural damage, corrosion, and inadequate lubrication. Special attention shall be given to stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers and at change-of-layer regions. This examination is required only on days the hoist rope is used.

At the completion of each daily examination, the person making the examination shall certify, by signature and date, that the examination has been made. If any of the conditions listed in paragraph (a) above are present, the person conducting the examination shall make a record of the conditions and the date. Certifications and records of daily examinations shall be retained for one year.

(c) Every six months, hoist rope diameter measurements or nondestructive tests shall be made at the following locations:

- (1) Wherever wear is evident;
 - (2) Where the hoist rope rests on sheaves at regular stopping points;
 - (3) Where the hoist rope leaves the drum at regular stopping points; and
 - (4) At drum crossover and change-of-layer regions.
- (d) The person making the measurements or nondestructive tests, as required in paragraph (c) above, and shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

12. It is proposed to redesignate and to revise standard 57.19-128 as follows:

57.19-24 *Retirement Criteria.* Unless the damage or deterioration is removed by cutoff, hoist ropes shall be removed from service when any of the following conditions occur:

- (a) Six randomly distributed broken wires in one rope lay length or three broken wires in one strand in one rope lay length (Snagged, nicked or severely bent wires shall count as broken wires.);
- (b) More than one broken wire in the valley between strands in one rope lay length;
- (c) A rapid increase in the number of broken wires;
- (d) A loss of more than one-third the original diameter of the outer wires;
- (e) Rope deterioration from corrosion;
- (f) Distortion of the rope structure;
- (g) Heat damage from any source;
- (h) A reduction in rope diameter that exceeds the values in Table 1; or
- (i) Broken wires and diameter reductions that in combination create a hazardous condition.

TABLE 1.—ROPE DIAMETER REDUCTION (IN INCHES)

Nominal rope diameter	Maximum allowable reduction of base-line diameter	
	Fraction	Decimal
$\frac{3}{16}$ to $\frac{1}{2}$	$\frac{1}{32}$	0.031
$\frac{5}{16}$ to $1\frac{1}{2}$	$\frac{1}{16}$	0.047
$1\frac{1}{2}$ to $1\frac{3}{4}$	$\frac{1}{8}$	0.063
$1\frac{3}{4}$ to $1\frac{1}{2}$	$\frac{1}{4}$	0.078
$1\frac{1}{2}$ or greater.....	$\frac{1}{2}$	0.094

13. It is proposed to revise redesignated standard 55.19-25 as follows:

55.19-25 *Loan End Attachments.* (a) Hoist ropes shall be attached to the load by the thimble-and-clip method, the socketing method, or other method that develops at least 80 percent of the nominal strength of the rope. Methods using splices or swaged fittings are prohibited. Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) Wire rope clips shall be installed according to Table 2. U-bolt clips shall be placed on the rope with the U-bolts bearing upon the short or "dead" end of the rope.

TABLE 2.—WIRE-ROPE CLIPS

Clip size (inches)	Minimum number of clips	Center to center clip spacing (inches)	Torque ¹ (foot pounds)	
			U-bolt	Fist grip
$\frac{3}{16}$	3	$5\frac{1}{2}$	65	65
$\frac{1}{4}$	3	6	95	130
$\frac{5}{16}$	3	6	95	130
$\frac{3}{8}$	4	6	130	225
$\frac{1}{2}$	4	$6\frac{1}{2}$	225	225
$1\frac{1}{8}$	5	$6\frac{1}{2}$	225	225
$1\frac{1}{4}$	6	$6\frac{1}{2}$	225	360
$1\frac{1}{2}$	6	$7\frac{1}{2}$	360	360
$1\frac{3}{4}$	7	$7\frac{1}{2}$	360	500
$1\frac{1}{2}$	7	8	360	500
$1\frac{1}{4}$	7	$8\frac{1}{2}$	430	—
$1\frac{1}{2}$	7	8	590	—
2.....	8	$10\frac{1}{2}$	750	—
$2\frac{1}{4}$	8	$10\frac{1}{2}$	750	—
$2\frac{1}{2}$	9	$10\frac{1}{2}$	750	—
$2\frac{3}{4}$	10	$11\frac{1}{2}$	750	—
3.....	10	$11\frac{1}{2}$	1200	—

¹ Threads not lubricated.

Note.—The number of clips shown in Table 2 is based upon using regular or long lay wire rope, 6 x 19 class or 6 x 37 class, fiber core or independent wire rope core (IWRC), improved plow steel (IPS) or extra improved plow steel (EIP). If seale construction or similar large-outer-wire-type construction in the 6 x 19 class is used for sizes one inch in diameter and larger, add at least one additional clip.

The number of clips shown in Table 2 also applies to right regular lay wire rope, 8 x 19 class, fiber core, IPS, sizes $1\frac{1}{2}$ inch and smaller; and the right regular lay wire rope, 18 x 7 class fiber core, IPS or EIP, sizes $1\frac{1}{2}$ inch and smaller.

14. It is proposed to revise redesignated standard 57.19-26 as follows:

57.19-26 *Drum End Attachment.* (a) The hoist rope shall be attached—

- (1) Securely by clips after making one full turn around the drum spoke;
- (2) Securely by clips after making one full turn around the shaft, if the drum is fixed to the shaft; or

(3) By properly assembled anchor bolts, clamps or wedges, if provided as a design feature of the hoist drum. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) The hoist rope shall have a minimum of three full turns on the drum when the rope is extended to its maximum working length.

(c) Whenever a length of a hoist rope wound in multiple layers is cut off at the drum end, the length of rope cut off shall not be a whole number multiple of the circumference of the drum.

15. It is proposed to redesignate and to revise standard 57.19-124 as follows:

57.19-27 *End Attachment Retermination.* Damaged or deteriorated hoist rope shall be removed by cutoff and the rope reterminated where there is—

- (a) More than one broken wire at an attachment;
- (b) Improper installation of an attachment;
- (c) Slippage at an attachment; or
- (d) Evidence of corrosion at an attachment.

16. It is proposed to add a new standard 57.19-28 as follows:

57.19-28 *End Attachment Replacement.* Hoist rope attachments shall be replaced when cracked, deformed or excessively worn.

17. It is proposed to redesignate and to revise standard 57.19-40 as follows:

57.19-29 *Groove Radius.* Sheave and drum grooves that have a radius less than 0.5125 times the nominal rope diameter shall be reconditioned or replaced.

18. It is proposed to revoke standard 57.19-39.

19. It is proposed to revoke standard 57.19-53.

20. It is proposed to revise standard 57.19-121 as follows:

57-19.121. At the time of completion, the person performing inspections, tests, and maintenance of shafts and hoisting equipment required in standard 57.19-120 shall certify, by signature and date, that they have been done. A record of any part that is not functioning properly shall be made and dated. Certifications and records shall be retained for one year.

21. It is proposed to revoke standard 57.19-123.

22. It is proposed to revoke standard 57.19-125.

23. It is proposed to revoke standard 57.19-131.

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

Subpart O—Hoisting and Mantrips

Part 75, Subchapter O, Chapter I, Title 30 of the Code of Federal Regulations, is proposed to be amended as follows.

1. The authority citation for the following revisions to Part 75 is:

Authority: Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811).

2. It is proposed to delete the centered heading "[STATUTORY PROVISION]" and to revise § 75.1400 as follows:

§ 75.1400 Hoisting equipment; general.

(a) Every hoist used to transport persons at a coal mine shall be equipped with overspeed, overwind and automatic stop controls.

(b) Every hoist handling a platform, cage or other device used to transport persons shall be equipped with brakes capable of stopping the fully loaded platform, cage or other device.

(c) Cages, platforms or other devices used to transport persons in shafts and slopes shall be equipped with safety catches or other no less effective devices approved by the Secretary that act quickly and effectively in an emergency. Such catches or devices

shall be tested at least once every two months.

(d) Hoisting equipment, including automatic elevators, used to transport persons shall be examined daily.

(e) Where persons are transported into or out of a coal mine by a hoist, a qualified hoisting engineer shall be on duty while any person is underground. No such engineer, however, shall be required for automatically operated cages, platforms or elevators.

3. It is proposed to revise § 75.1400-3 as follows:

75.1400-3 Daily examination of hoisting equipment.

Hoists and elevators shall be examined daily and such examinations shall include but not be limited to the following:

Elevators

(a) A visual examination of the rope for wear, broken wires, and corrosion, especially at excessive strain points, such as near the attachments and where the rope rests on the sheaves.

(b) An examination of the rope fastenings for defects.

Hoists and Elevators

(c) An examination of safety catches.

(d) An examination of the cages, platforms, elevators, or other devices for loose, missing, or defective parts.

(e) An examination of the head sheaves to check for broken flanges, defective bearings, rope alignment, and proper lubrication.

(f) An observation of the lining and all other equipment and appurtenances installed in the shaft.

4. It is proposed to revise § 75.1400-4 to read as follows:

§ 75.1400-4 Daily examinations of hoisting equipment; records.

At the completion of each daily examination required by § 75.1400, the person making the examination shall certify, by signature and date, that the examination has been made. If any of the conditions listed in § 75.1400-3 are present, the person conducting the examination shall make a record of the conditions and the date. Certifications and records shall be retained for one year.

5. It is proposed to delete the centered heading "[STATUTORY PROVISIONS]" and to revise § 75.1401 as follows:

§ 75.1401 Hoists; rated capacities; indicators.

Hoists shall have rated capacities consistent with the loads handled. An accurate and reliable indicator of the position of the cage, platform, skip, bucket, or cars shall be provided.

§§ 75.1401-1 and 75.1401-2 [Removed]

6. It is proposed to revoke § 75.1401-1.

7. It is proposed to revoke § 75.1401-2.

§ 75.1401-3 [Redesignated as § 75.1401-1]

8. It is proposed to redesignate § 75.1401-3 as § 75.1401-1.

§§ 75.1405 and 75.1405-1 [Redesignated as §§ 75.1407 and 75.1407-1]

9. It is proposed to redesignate §§ 75.1405 and 75.1405-1 as §§ 75.1407 and 75.1407-1, respectively.

§ 75.1403 [Redesignated as § 75.1405]

10. It is proposed to redesignate § 75.1403 as § 75.1405.

§§ 75.1403-1 through 75.1403-11 [Redesignated as §§ 75.1405-1 through 75.1405-11]

11. It is proposed to redesignate §§ 75.1403-1 through 75.1403-11 as §§ 75.1405-1 through 75.1405-11, respectively.

§§ 75.1404 and 75.1404-1 [Redesignated as §§ 75.1406 and 75.1406-1]

12. It is proposed to redesignate §§ 75.1404 and 75.1404-1 as §§ 75.1406 and 75.1406-1, respectively.

13. It is proposed to add new §§ 75.1404 and 75.1404-1 through 75.1404-9 as follows:

§ 75.1404 Wire ropes; scope.

The requirements in §§ 75.1404-1 through 75.1404-9 shall apply to wire ropes used for hoisting persons or hoisting loads that may endanger the safety of persons.

§ 75.1404-1 Minimum rope strength.

At installation, the nominal strength (manufacturer's published catalog strength) of wire ropes used for hoisting shall meet the minimum values obtained by the following formulas:

(a) Winding Drum Rope
Rope lengths less than 3000 feet—
Minimum Value = Static Load x (7.0-0.001L)

Rope lengths 3000 feet or greater—
Minimum Value = Static Load x 4.0
(b) Friction Drum Ropes

(1) Friction Hoist Ropes
Rope lengths less than 4000 feet—
Minimum Value = Static Load x (7.0-0.0005L)

Rope lengths 4000 feet or greater—
Minimum Value = Static Load x 5.0

(2) Tail (Balance Ropes)
Minimum Value = Weight of Rope x 7.0

(3) Guide and Rubbing Ropes
Minimum Value = Weight of Rope x 5.0

(c) Rotation Resistant Rope
Minimum Value = Static Load x 10.0

Where L equals maximum suspended rope length in feet.

§ 75.1404-2 Initial operation and measurement.

Prior to placement in service, a newly installed hoist rope shall be operated for at least ten cycles through its full length, starting with a light load at reduced speed. Load and speed shall be increased with each cycle until maximum operating conditions are met. Immediately following this procedure, the rope diameter shall be measured at least once in every third interval of length to establish a base line for subsequent measurements. A record of the measurements and the date shall be made by the person taking the measurements. This record shall be retained until the rope is retired from service.

§ 75.1404-3 Daily and six-month examinations.

(a) A daily visual examination of hoist ropes and their attachments shall be made for wear, broken wires, structural damage, corrosion and inadequate lubrication. Special attention shall be given to stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers and at change-of-layer regions. This examination is required only on days the hoist rope is used.

(b) At the completion of each daily examination, the person making the examination shall certify, by signature and date, that the examination has been made. If any of the conditions listed in paragraph (a) above are present, the person conducting the examination shall make a record of the conditions and the date. Certifications and records of daily examinations shall be retained for one year.

(c) Every six months, hoist rope diameter measurements or nondestructive tests shall be made at the following locations:

- (1) Wherever wear is evident;
- (2) Where the hoist rope rests on sheaves at regular stopping points;
- (3) Where the hoist rope leaves the drum at regular stopping points; and
- (4) At drum crossover and change-of-layer regions.

(d) The person making the measurements or nondestructive tests, as required in paragraph (c) above, shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

§ 75.1404-4 Retirement criteria.

Unless the damage or deterioration is removed by cutoff, hoist ropes shall be removed from service when any of the following conditions occur:

- Six randomly distributed broken wires in one rope lay length or three broken wires in one strand in one rope lay length (Snagged, nicked or severely bent wires shall count as broken wires.);
- More than one broken wire in the valley between strands in one rope lay length;
- A rapid increase in the number of broken wires;
- A loss of more than one-third the original diameter of the outer wires;
- Rope deterioration from corrosion;
- Distortion of the rope structure;
- Heat damage from any source;
- A reduction in rope diameter that exceeds the values in Table 1; or
- Broken wires and diameter reductions that in combination create a hazardous condition.

TABLE 1—ROPE DIAMETER REDUCTION (IN INCHES)

Nominal rope diameter	Maximum allowable reduction of base-line diameter	
	Fraction	Decimal
$\frac{1}{16}$ to $\frac{1}{8}$	$\frac{1}{32}$	0.031
$\frac{1}{8}$ to $1\frac{1}{2}$	$\frac{1}{16}$	0.047
$1\frac{1}{2}$ to $1\frac{3}{4}$	$\frac{1}{8}$	0.063
$1\frac{3}{4}$ to $1\frac{7}{8}$	$\frac{1}{4}$	0.078
$1\frac{7}{8}$ or greater.....	$\frac{1}{2}$	0.094

§ 75.1404-5 Load end attachments.

(a) Hoist ropes shall be attached to the load by the thimble-and-clip method, the socketing method, or other method that develops at least 80 percent of the nominal strength of the rope. Methods using splices or swaged fittings are prohibited. Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) Wire rope clips shall be installed according to Table 2. U-bolt clips shall be placed on the rope with the U-bolts bearing upon the short or "dead" end of the rope.

TABLE 2—WIRE-ROPE CLIPS

Clip size (inches)	Minimum number of clips	Center to center clip spacing (inches)	Torque ¹ (foot pounds)	
			U-bolt	First grip
$\frac{1}{2}$	3	5 $\frac{1}{2}$	65	65
$\frac{3}{8}$	3	6	95	130
$\frac{1}{4}$	3	6	95	130
$\frac{3}{8}$	4	6	130	225
$\frac{1}{2}$	4	6 $\frac{1}{2}$	225	225

TABLE 2—WIRE-ROPE CLIPS—Continued

Clip size (inches)	Minimum number of clips	Center to center clip spacing (inches)	Torque ¹ (foot pounds)	
			U-bolt	First grip
1.....	5	6 $\frac{1}{2}$	225	225
1 $\frac{1}{8}$	6	6 $\frac{1}{2}$	225	360
1 $\frac{1}{4}$	6	7 $\frac{1}{2}$	360	360
1 $\frac{3}{8}$	7	7 $\frac{1}{2}$	360	500
1 $\frac{1}{2}$	7	8	360	500
1 $\frac{3}{4}$	7	8 $\frac{1}{2}$	430	—
2.....	7	8 $\frac{1}{2}$	590	—
2 $\frac{1}{2}$	8	10 $\frac{1}{2}$	750	—
2 $\frac{3}{4}$	8	10 $\frac{1}{2}$	750	—
2 $\frac{1}{2}$	9	10 $\frac{1}{2}$	750	—
2 $\frac{3}{4}$	10	11 $\frac{1}{2}$	750	—
3.....	10	11 $\frac{1}{2}$	1200	—

¹Threads not lubricated.

Note.—The number of clips shown in Table 2 is based upon using regular or lang lay wire rope, 6 x 19 class or 6 x 37 class, fiber core or independent wire rope core (IWRC), improved plow steel (IPS) or extra improved plow steel (EIP). If seal construction or similar large-outer-wire-type construction in the 6 x 19 class is used for sizes one inch in diameter and larger, add at least one additional clip.

The number of clips shown in Table 2 also applies to right regular lay wire rope, 8 x 19 class, fiber core, IPS, sizes 1 $\frac{1}{2}$ inch and smaller; and the right regular lay wire rope, 18 x 7 class fiber core, IPS or EIP, sizes 1 $\frac{1}{2}$ inch and smaller.

§ 75.1404-6 Drum end attachment.

- (a) The hoist rope shall be attached—
- (1) Securely by clips after making one full turn around the drum spoke;
 - (2) Securely by clips after making one full turn around the shaft, if the drum is fixed to the shaft; or
 - (3) By properly assembled anchor bolts, clamps or wedges, if provided as a design feature of the hoist drum. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) The hoist rope shall have a minimum of three full turns on the drum when the rope is extended to its maximum working length.

(c) Whenever a length of a hoist rope wound in multiple layers is cut off at the drum end, the length of rope cut off shall not be a whole number multiple of the circumference of the drum.

§ 75.1404-7 End attachment retermination.

Damaged or deteriorated hoist rope shall be removed by cutoff and the rope reterminated where there is—

- More than one broken wire at an attachment;
- Improper installation of an attachment;
- Slippage at an attachment; or
- Evidence of corrosion at an attachment.

§ 75.1404-8 End attachment replacement.

Hoist rope attachments shall be replaced when cracked, deformed or excessively worn.

§ 75.1404-9 Groove Radius.

Sheave and drum grooves that have a radius less than 0.5125 times the nominal rope diameter shall be reconditioned or replaced.

14. It is proposed to revise redesignated § 75.1405-3 as follows:

§ 75.1405-3 Criteria—Drum clutch; cage construction.

(a) The clutch of a free-drum on a personnel hoist should be provided with a locking mechanism or interlocked with the brake to prevent accidental withdrawal of the clutch.

(b) Cages used for hoisting persons should be constructed with the sides enclosed to a height of at least six feet and should have gates, safety chains, or bars across the ends of the cage when persons are being hoisted or lowered.

(c) Self-dumping cages, platforms, or other devices used for transportation of persons should have a locking device to prevent tilting when persons are transported thereon.

(d) An attendant should be on duty at the surface when persons are being hoisted or lowered at the beginning and end of each operating shift.

(e) Precautions should be taken to protect persons working in shaft sumps.

(f) Workers should wear safety belts while doing work in or over shafts.

Subpart S—Approved Books and Records

Part 75, Subchapter O, Chapter I, Title 30 of the Code of Federal Regulations, is proposed to be amended as follows:

§ 75.1807 [Removed]

1. It is proposed to revoke § 75.1807.

PART 77—MANDATORY SAFETY STANDARDS, SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES**Subpart O—Man Hoisting**

Part 77, Subchapter O, Chapter I, Title 30 of the Code of Federal Regulations, is proposed to be amended as follows.

1. The authority citation for the following revisions to Part 77 is:

Authority: Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811).

2. It is proposed to delete the words "Man Hoisting" and substitute "Hoisting" in the headings for Subchapter O of Part 77.

3. It is proposed to revise § 77.1402 as follows:

§ 77.1402 Rated capacity.

Hoists and elevators shall have rated capacities consistent with the loads handled.

§ 77.1402-1 [Removed]

4. It is proposed to revoke § 77.1402-1.

§ 77.1402-2 [Redesignated as § 77.1402-1]

5. It is proposed to redesignate § 77.1402-2 as § 77.1402-1.

6. It is proposed to revise § 77.1403 as follows:

§ 77.1403 Daily examination of hoisting equipment.

(a) Hoists and elevators shall be examined daily and such examinations shall include, but not be limited to, the following:

Elevators

(1) A visual examination of the rope for wear, broken wires, and corrosion, especially at excessive strain points, such as near the attachments and where the rope rests on the sheaves;

(2) An examination of the rope fastenings for defects;

(3) An examination of the elevator for loose, missing, or defective parts;

Hoists and Elevators

(4) An examination of sheaves for broken flanges, defective bearings, rope alignment, and proper lubrication; and

(5) An examination of the automatic controls and brakes required under § 77.1401.

(b) At the completion of each daily examination required by paragraph (a) above, the person making the examination shall certify, by signature and date, that the examination has been made. If any of the conditions listed in paragraph (a) above are present, the person conducting the examination shall make a record of the conditions and the date. Certifications and records shall be retained for one year.

(c) Empty conveyances shall be operated at least one round trip before hoisting persons after any repairs.

7. It is proposed to add new §§ 77.1404 and 77.1404-1 through 77.1404-9 as follows:

§ 77.1404 Wire ropes; scope.

The requirements in § 77.1404-1 through 77.1404-9 shall apply to wire ropes used for hoisting persons or hoisting loads that may endanger the safety of persons.

§ 77.1404-1 Minimum rope strength.

At installation, the nominal strength (manufacturer's published catalog

strength) of wire rope used for hoisting shall meet the minimum values obtained by the following formulas:

(a) Winding Drum Rope
Rope lengths less than 3000 feet—
Minimum Value = Static Load x (7.0 - 0.001L)

Rope lengths 3000 feet or greater—
Minimum Value = Static Load x 4.0
(b) Friction Drum Ropes

(1) Friction Hoist Ropes
Rope lengths less than 4000 feet—
Minimum Value = Static Load x (7.0 - 0.0005L)

Rope lengths 4000 feet or greater—
Minimum Value = Static Load x 5.0
(2) Tail (Balance Ropes)

Minimum Value = Weight of Rope x 7.0

(3) Guide and Rubbing Ropes
Minimum Value = Weight of Rope x 5.0

(c) Rotation Resistant Rope
Minimum Value = Static Load x 10.0
Where L equals maximum suspended rope length in feet.

§ 77.1404-2 Initial operation and measurement.

Prior to placement in service, a newly installed hoist rope shall be operated for at least ten cycles through its full length, starting with a light load at reduced speed. Load and speed shall be increased with each cycle until maximum operating conditions are met. Immediately following this procedure, the rope diameter shall be measured at least once in every third interval of length to establish a base line for subsequent measurements. A record of the measurements and the date shall be made by the person taking the measurements. This record shall be retained until the rope is retired from service.

§ 77.1404-3 Daily and six-month examinations.

(a) A daily visual examination of hoist ropes and their attachments shall be made for wear, broken wires, structural damage, corrosion and inadequate lubrication. Special attention shall be given to stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers and at change-of-layer regions. This examination is required only on days the hoist rope is used.

(b) At the completion of each daily examination, the person making the examination shall certify, by signature and date, that the examination has been made. If any of the conditions listed in paragraph (a) above are present, the person conducting the examination shall

make a record of the conditions and the date. Certifications and records of daily examinations shall be retained for one year.

(c) Every six months, hoist rope diameter measurements or nondestructive tests shall be made at the following locations:

- (1) Wherever wear is evident;
- (2) Where the hoist rope rests on sheaves at regular stopping points;
- (3) Where the hoist rope leaves the drum at regular stopping points; and
- (4) At drum crossover and change-of-layer regions.

(d) The person making the measurements or nondestructive tests, as required in paragraph (c) above, shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

§ 77.1404-4 Retirement criteria.

Unless the damage or deterioration is removed by cutoff, hoist ropes shall be removed from service when any of the following conditions occur:

(a) Six randomly distributed broken wires in one rope lay length or three broken wires in one strand in one rope lay length (snagged, nicked or severely bent wires shall count as broken wires);

(b) More than one broken wire in the valley between strands in one rope lay length;

(c) A rapid increase in the number of broken wires;

(d) A loss of more than one-third the original diameter of the outer wires;

(e) Rope deterioration from corrosion;

(f) Distortion of the rope structure;

(g) Heat damage from any source;

(h) A reduction in rope diameter that exceeds the values in Table 1; or

(i) Broken wires and diameter reductions that in combination create a hazardous condition.

TABLE 1.—ROPE DIAMETER REDUCTION (IN INCHES)

Nominal rope diameter	Maximum allowable reduction of base-line diameter	
	Fraction	Decimal
5/8 to 1	1/32	0.031
1 to 1 1/8	1/16	0.047
1 1/8 to 1 1/2	3/64	0.063
1 1/2 to 1 3/4	1/16	0.078
1 3/4 or greater	3/32	0.094

§ 77.1404-5 Load end attachments.

(a) Hoist ropes shall be attached to the load by the thimble-and-clip method, the socketing method, or other method

that develops at least 80 percent of the nominal strength of the rope. Methods using splices or swaged fittings are prohibited. Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) Wire rope clips shall be installed according to Table 2. U-bolt clips shall be placed on the rope with the U-bolts bearing upon the short or "dead" end of the rope.

TABLE 2.—WIRE-ROPE CLIPS

Clip size (inches)	Minimum number of clips	Center to center clip spacing (inches)	Torque ¹ (foot pounds)	
			U-bolt	Fist grip
5/8	3	5 1/2	65	65
3/4	3	6	95	130
7/8	3	6	95	130
1	4	6	130	225
1 1/8	4	6 1/2	225	225
1 1/4	5	6 1/2	225	225
1 1/2	6	6 1/2	225	360
1 3/4	6	7 1/2	360	360
2	7	7 1/2	360	500
2 1/8	7	8	360	500
2 1/4	7	8 1/2	430	—
2 1/2	7	8 1/2	590	—
2 3/4	8	10 1/2	750	—
3	8	10 1/2	750	—
3 1/8	9	10 1/2	750	—
3 1/4	10	11 1/2	750	—
3 1/2	10	11 1/2	1200	—

¹ Threads not lubricated.

Note.—The number of clips shown in Table 2 is based upon using regular or lang lay wire rope, 6 x 19 class or 6 x 37 class, fiber core or independent wire rope core (IWRC), improved plow steel (IPS) or extra improved plow steel (EIP). If seal construction or similar large-outer-wire-type construction in the 6 x 19 class is used for sizes one inch in diameter and larger, add at least one additional clip.

The number of clips shown in Table 2 also applies to right regular lay wire rope, 8 x 19 class, fiber core, IPS, sizes 1 1/2 inch and smaller; and the right regular lay wire rope, 18 x 7 class fiber core, IPS or EIP, sizes 1 1/2 inch and smaller.

§ 77.1404-6 Drum end attachment.

(a) The hoist rope shall be attached—
(1) Securely by clips after making one full turn around the drum spoke;

(2) Securely by clips after making one full turn around the shaft, if the drum is fixed to the shaft; or

(3) By properly assembled anchor bolts, clamps or wedges, if provided as a design feature of the hoist drum. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) The hoist rope shall have a minimum of three full turns on the drum when the rope is extended to its maximum working length.

(c) Whenever a length of a hoist rope wound in multiple layers is cut off at the drum end, the length of rope cut off shall not be a whole number multiple of the circumference of the drum.

§ 77.1404-7 End attachment retermination.

Damaged or deteriorated hoist rope shall be removed by cutoff and the rope reterminated where there is—

- (a) More than one broken wire at an attachment;
- (b) Improper installation of an attachment;
- (c) Slippage at an attachment; or
- (d) Evidence of corrosion at an attachment.

§ 77.1404-8 End attachment replacement.

Hoist rope attachments shall be replaced when cracked, deformed or excessively worn.

§ 77.1404-9 Groove radius.

Sheave and drum grooves that have a radius less than 0.5125 times the nominal rope diameter shall be reconditioned or replaced.

Subpart T—Slope and Shaft Sinking

Part 77, Subchapter O, Chapter I, Title 30 of the Code of Federal Regulations, is proposed to be amended as follows.

1. It is proposed to revise § 77.1903(a) as follows:

§ 77.1903 Hoists and hoisting; minimum requirements.

(a) Hoists employed in transporting persons and material during drilling, mucking, or other excavating operations in any slope or shaft shall have rated capacities consistent with the loads to be handled.

§ 77.1903 [Amended]

2. It is proposed to revoke § 77.1903(b) and to redesignate § 77.1903(c) as § 77.1903(b).

3. It is proposed to revise § 77.1906 as follows:

§ 77.1906 Hoists; daily inspection.

(a) Hoists used to transport persons shall be inspected daily, and each such inspection shall include examination of the headgear (headframe, sheave wheels, etc.), connections, links and chains, and other facilities.

(b) Prior to each working shift, and before a hoist is returned to service after

it has been out of normal service for any reason, it shall be run by the hoist operator through one complete cycle of operation before any person is permitted to be transported.

(c) At the completion of each daily examination required by paragraph (a), the person making the examination shall certify, by signature and date, that the examination has been made. If any unsafe conditions in the hoisting equipment are present, the person conducting the examination shall make a record of the conditions and the date. Certifications and records shall be retained for one year.

4. It is proposed to revise § 77.1907 as follows:

§ 77.1907 Hoist construction; general.

Where hooks are used to attach cages or buckets to the sockets or thimble of a hoisting rope, they shall be self-closing.

[FR Doc. 82-31130 Filed 11-15-82; 8:45 am]

BILLING CODE 4510-43-M

Federal Register

Tuesday
November 16, 1982

Part III

**Office of
Management and
Budget**

**Cumulative Report on Rescissions and
Deferrals**

**OFFICE OF MANAGEMENT AND
BUDGET****Cumulative Report on Rescissions and
Deferrals**

November 1, 1982

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of November 1, 1982 of 20 deferrals contained in the first special message of FY 1983 transmitted to the Congress on October 1, 1982.

Deferrals (Attachment)

As of November 1, 1982 \$584.3 million in 1983 budget authority was being deferred from obligation and another \$7.9 million in 1983 obligations was being deferred from expenditure. The Attachment shows the history and status of each deferral reported during FY 1983.

Information from special message

The special message containing information on the deferrals covered by the cumulative report is printed in the **Federal Register** of: Thursday, October 7, 1982 (Part V, Vol. 47, No. 195).

David A. Stockman,

Director.

BILLING CODE 3110-01-M

STATUS OF 1983 DEFERRALS

	Amount (In millions of dollars) *
Deferrals proposed by the President.....	\$ 598.8
Routine Executive releases through November 1, 1982.....	-6.5
Overturned by the Congress.....	0
Currently before the Congress.....	\$ <u>592.2</u> a

* Totals do not add due to rounding.

a This amount includes \$7.9 million in outlays for a Department of the Treasury deferral (D83-16).

PAGE 2	ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983				AS OF 11/04/82 14:38			
	AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE /AGENCY RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-1-82
	DEPARTMENT OF COMMERCE							
	TOTAL BA		33,975			-6,534		27,441
	DEPARTMENT OF DEFENSE-MILITARY							
	Military Construction							
	Military construction, all services							
	BA D83- 6		64,063		10 1 82			64,063
	DEPARTMENT OF DEFENSE-MILITARY							
	TOTAL BA		64,063					64,063
	DEPARTMENT OF DEFENSE-CIVIL							
	Wildlife Conservation, Military Reservations							
	Wildlife conservation							
	BA D83- 7		1,061		10 1 82			1,061
	DEPARTMENT OF DEFENSE-CIVIL							
	TOTAL BA		1,061					1,061
	DEPARTMENT OF ENERGY							
	Energy Programs							
	Fossil energy R&D							
	BA D83- 8		20,136		10 1 82			20,136

PAGE 3	AMOUNTS IN THOUSANDS OF DOLLARS	DEFERRAL NUMBER	STATUS OF DEFERRALS	FISCAL YEAR 1983	AS OF 11/04/82 14:38		
					AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	
	AGENCY/BUREAU/ACCOUNT		AMOUNT ORIGINAL REQUEST		CUMULATIVE / AGENCY RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-1-82
	DEPARTMENT OF ENERGY		20,136				20,136
	DEPARTMENT OF HEALTH AND HUMAN SERVICES						
	Alcohol, Drug Abuse & Mental Health Administration						
	Construction & renovation, St. Elizabeths Hospital	BA D83- 9	9,714	10 1 82			9,714
	Office of Assistant Secretary for Health						
	Special foreign currency program						
	BA D83- 10		6,420	10 1 82			6,420
	DEPARTMENT OF HEALTH AND HUMAN SERVICES						
	TOTAL BA		16,134				16,134
	DEPARTMENT OF THE INTERIOR						
	National Park Service						
	Land and water conservation fund						
	BA D83- 11		30,000	10 1 82			30,000
	DEPARTMENT OF THE INTERIOR						
	TOTAL BA		30,000				30,000
	DEPARTMENT OF STATE						
	Other						
	Emergency refugee and migration assistance fund						
	BA D83- 12		37,692	10 1 82			37,692

PAGE	4	ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983	AS OF 11/04/82	14:38		
AMOUNTS IN THOUSANDS OF DOLLARS	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	DATE OF MESSAGE MO DA YR	CUMULATIVE /AGENCY RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-1-82
DEPARTMENT OF STATE	TOTAL BA	37,692				37,692
DEPARTMENT OF TRANSPORTATION						
Federal Aviation Administration						
	Civil supersonic aircraft development termination	46	10 1 82			46
	BA D83-13					
	Facilities & equip. (Airport & airway trust fund)	158,485	10 1 82			158,485
	BA D83-14					
DEPARTMENT OF TRANSPORTATION	TOTAL BA	158,531				158,531
DEPARTMENT OF THE TREASURY						
Office of Revenue Sharing						
	State and local government fiscal assistance fund					
	BA D83-15	106,474	10 1 82			106,474
	0 D83-16	7,909	10 1 82			7,909
Federal Law Enforcement Training Center						
	Construction					
	BA D83-17	3,078	10 1 82			3,078
DEPARTMENT OF THE TREASURY	TOTAL BA	109,552				109,552
	TOTAL 0	7,909				7,909
OTHER INDEPENDENT AGENCIES						
District of Columbia						

PAGE	5	ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983		AS OF 11/04/82 14:38					
		AMOUNTS IN THOUSANDS OF DOLLARS	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE /AGENCY RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-1-82
		Agency/Bureau/Account							
		Loans to DC for capital investment	BA D83- 18	38,832		10	1	82	38,832
		Pennsylvania Avenue Development Corporation							
		Land acquisition and development fund	BA D83- 19	17,949		10	1	82	17,949
		Railroad Retirement Board							
		Milwaukee railroad restructuring, administration	BA D83- 20	240		10	1	82	240
		OTHER INDEPENDENT AGENCIES							
		TOTAL BA		57,021					57,021
		TOTAL BA		590,871					584,337
		TOTAL O		7,909					7,909
									-6,534

END OF REPORT

[PR Doc: 82-31358 Filed 11-15-82; 8:45 am]
BILLING CODE 3110-01-C

Federal Register

Tuesday
November 16, 1982

Part IV

Department of Health and Human Services

Food and Drug Administration

Review of Records and Reports
Regulations for Radiation Emitting
Electronic Products; Invitation To Submit
Comments, Data, and Information

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1002

[Docket No. 82N-0273]

Review of Records and Reports Regulations for Radiation Emitting Electronic Products; Invitation To Submit Comments, Data and Information

AGENCY: Food and Drug Administration.

ACTION: Invitation to submit comments, data, and information.

SUMMARY: The Food and Drug Administration (FDA) announces that it is reviewing the records and reports regulations for electronic products. This notice invites interested persons to submit comments, data, and information to assist FDA in assessing the benefit, economic cost, and need for revision of these regulations. In addition, FDA invites comment on several alternative approaches for minimizing regulatory burdens while assuring the radiation safety of electronic products.

DATE: Comments, data, and information by February 14, 1983.

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

FOR FURTHER INFORMATION CONTACT: John G. Bailey, National Center for Devices and Radiological Health (HFX-25), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-3434.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 14, 1981 (46 FR 36333), FDA published a notice announcing a systematic review of its rules and asked the public to comment on those FDA regulations that are most burdensome. The purpose of the review is to identify regulations that impose significant cost burdens and, for such rules, to explore alternative measures for protecting the public health. This retrospective review is required by the Regulatory Flexibility Act (Pub. L. 96-354) and by Executive Order 12291.

Subsequently, as a result of a systematic assessment of public comments in response to the July 14, 1981 notice and of available information, FDA published a notice in the Federal Register of July 2, 1982 (47 FR 29004) that identified 21 CFR Part 1002 as one of the rules selected as its highest initial review priorities.

The Records and Reports Regulations

The records and reports requirements in Part 1002 were adopted in 1970 under the authority of the Radiation Control for Health and Safety Act of 1968 (the act) (42 U.S.C. 263b-263n). The act directs the agency to conduct a radiation control program, including development and administration of performance standards, evaluation of potential radiation hazards from electronic products, and evaluation of the adequacy of manufacturers' testing programs on a continuing basis. The act authorizes agency inspections of factories only for "good cause" but provides for manufacturers to certify product compliance with performance standards, to maintain records, and to submit reports. Thus, the reporting and recordkeeping provisions in Part 1002 were developed so that the agency could obtain the data necessary for it to assess radiation emissions from products, to determine compliance with performance standards, and to determine the adequacy of quality control and testing programs. Currently, the agency confirms and supplements these data for some products through voluntary factory inspections.

Four major requirements are contained in Part 1002: Subpart B—Required manufacturers' reports for listed electronic products; Subpart C—Manufacturers' reports on accidental radiation occurrences; Subpart D—Manufacturers' records; and Subpart E—Dealer and distributor records. General provisions are contained in Subpart A, and exemptions from records and reports requirements are provided for in Subpart F. The applicability of the requirements is determined by the listing of electronic products contained in Subpart G (consisting of 21 CFR 1002.61), as summarized in the table below.

Products Listed in Section 1002.61

Group A: (1) Ultrasonic products. (2) Microwave heating equipment. (3) High voltage vacuum switches and rectifier tubes, shunt regulator tubes, and cathode ray tubes (over 5,000 volts but less than 15,000 volts). (4) Ultraviolet lamps and products for diagnosis or therapy (less than 320 nanometers).

Group B: (1) Television receivers which meet the Federal standard (cannot exceed 15,000 volts). (2) High voltage vacuum switches and rectifier tubes, shunt regulator tubes, and cathode ray tubes (15,000 volts or greater).

Group C: (1) Products subject to performance standards (except as noted above): (a) Television receivers; (b)

Cold-cathode gas discharge tubes; (c) Diagnostic X-ray systems and major components; (d) Cabinet X-ray systems; (e) Microwave ovens; (f) Laser products; (g) Sunlamp products and component ultraviolet lamps; (h) High intensity mercury vapor discharge lamps; (i) Ultrasonic therapy products. (2) Products intended to produce X-radiation. (3) Industrial dielectric heaters, including RF sealers and electromagnetic induction equipment (2 megahertz to 500 megahertz). (4) Microwave diathermy machines.

Subpart B requires manufacturers to submit three types of reports. Section 1002.10 *Initial reports* and § 1002.12 *Reports of model changes* require all manufacturers of Groups A, B, and C listed products to submit descriptive information on the operation, labeling, design specifications, and function of components for the control of electronic product radiation. These reports also are required to describe the testing and quality control procedures used to assure that the product meets its design specifications and provide information on user, assembler, and service instructions to assure continued safety of the products. FDA uses the information in these reports to evaluate product hazards or compliance with a performance standard, often before products are marketed, and also to evaluate quality control and testing programs. For products for which FDA has issued performance standards (Group C (1) listed products), the agency may disapprove testing programs considered inadequate to assure compliance with the standard. Agency personnel review the reports before an inspection to reduce time spent at the firm's facility. Section 1002.11 *Annual reports* requires manufacturers of Groups B and C listed products to submit data that summarizes the records required by Subpart D. FDA uses the annual reports to monitor ongoing testing programs.

Subpart C requires all manufacturers to report to FDA known or suspected accidental radiation occurrence arising from the manufacture, testing, or use of an electronic product. Such reports, which include the number of persons involved and the nature of their radiation exposure and injuries, usually result in investigation by the agency.

Subpart D requires manufacturers of Groups B and C listed products to maintain records of quality control procedures, test results, and test procedures for the control of electronic product radiation. These manufacturers also are required to maintain copies of pertinent communications to dealers,

distributors, and purchasers concerning radiation safety. Further, manufacturers of Group C listed products are required to maintain records to enable the manufacturer or FDA to trace products or production lots of products to distributors or dealers and, in some instances, to purchasers.

Subpart E requires dealers and distributors to maintain records for electronic products which cost more than \$50 and for which there are performance standards (Group C (1) list) to permit tracing the product to purchasers in the event of a recall. These records are required to identify the individual purchaser as well as the model and serial number of the product purchased. The value of \$50 was established in 1970 when the regulations first were issued and has not been adjusted for inflation, reduced retail costs resulting from improved technology, or any other reason.

Procedure for Review of the Records and Reports Regulations

FDA's National Center for Devices and Radiological Health has convened an internal task force to review the records and reports regulations for electronic products. The major steps determined by the task force to conduct the review are to: (1) Invite interested persons to submit comments, data, and information; (2) analyze any data received in response to this notice and the notices of July 14, 1981 and July 2, 1982; (3) investigate societal benefits and economic costs (including the agency's costs) of the regulations and any feasible alternatives; (4) prepare cost impact analyses with regard to the Regulatory Flexibility Act and Executive Order 12291; and (5) prepare recommendations for FDA action. If proposed rulemaking results from this review, the public will again have the opportunity for comment.

In reviewing and evaluating the need to revise Part 1002, the task force will consider the following:

1. The continued need for the rule and the public health protection provided by the records and reports requirements in the rule.
2. Comments, data, and information received from the public or developed from internal agency data.
3. The complexity of the rule.
4. The extent to which the rule duplicates, overlaps, or conflicts with other Federal regulations or with State and local government regulations.
5. The extent to which advances in technology, economic considerations, or other factors have affected the appropriateness of and the need for the rule.

Invitation to Submit Comments, Data, and Information

FDA invites interested persons to submit comments, data, and information regarding the need to revise Part 1002. Any comments previously submitted in response to the notices of July 14, 1981 or July 2, 1982 (Docket No. 81N-0200) need not be resubmitted, as they will be considered in this review.

FDA would like to obtain information about the impact of the regulations on various industries, product groups, and firms of different sizes. Any interested persons, including the public, manufacturers, dealers, and distributors of electronic products, are invited to submit comments and views; however, comments supported by data, cost estimates, or other factual information would be especially useful.

Areas in which the agency particularly encourages interested persons to comment include:

A. Cost of Records and Reports

1. Costs of preparing initial, model change, supplemental, and annual reports, and associated manufacturing and testing records; the type of electronic product and approximate size of firm for which the records and reports are prepared; the number of each type of report submitted each year.

2. Costs of recordkeeping and reporting attributable to engineering, testing, and quality control programs established to comply with performance standards; the costs attributable to data collection and clerical services made necessary by the records and reports regulations.

3. The types and number of records generated each year that would not otherwise exist; the cost of generating these records and the annual cost of maintaining them.

4. The usefulness of manufacturer (dealer)-maintained individual purchaser lists (21 CFR 1002.40 and 1002.41) for recall/repair/replacement of defective products; alternative methods that could be used (e.g., public announcements) to locate products requiring correction; the dollar value of individual products or other criteria that might be used to determine the applicability of the requirement to maintain purchaser records.

5. The impact of requiring manufacturers to report accidental radiation occurrences (21 CFR 1002.20); how the provision might be modified.

B. Benefits of Records and Reports

1. Any benefits to the public from requiring manufacturers to maintain records and submit reports to FDA on

their test programs and on electronic product radiation from products they manufacture.

2. Any benefits to manufacturers, dealers, or distributors of electronic products from reporting requirements, e.g., to detect noncompliance with the performance standard, or detect testing and quality control problems before (or after) a product is introduced into commerce.

3. Any benefits to manufacturers, dealers, or distributors of electronic products from generating or maintaining records, e.g., use of the records in investigating possible noncompliance, defects, or customer complaints.

4. Any benefits to manufacturers, dealers, or distributors of electronic products from reporting guides made available by FDA, e.g., reduction of the time or cost of preparing required records and reports.

5. Products for which records and reports are appropriate and reasons why they are appropriate; purposes for which records and reports should be required and by whom; how long records should be kept; appropriate content of reports and means to update the content.

C. Alternatives to the Records and Reports Regulations

1. Whether FDA should rely primarily on (a) records and reports or (b) on field inspections and tests to monitor compliance with performance standards; whether FDA should seek to have the act revised to provide authority to enter manufacturers' premises routinely for the purposes of compliance inspections; other suitable methods for FDA to monitor compliance with the act and to assess electronic product radiation emissions.

2. Any other changes in the records and reports regulations and in the FDA program for their implementation that would minimize regulatory burdens while assuring the radiation safety of electronic products.

3. Any data on cost effectiveness of suggested alternative methods to monitor compliance and electronic product radiation emissions.

4. Any additional comments and alternative approaches to the records and reports regulations.

This notice is issued under the authority of the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263(f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10).

No person is required to submit any response to this notice, but interested

persons may submit written comments, data, or information to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this

document. Comments should be submitted by February 14, 1983; however, comments received after that date will be included in the analysis, if possible. Information submitted in response to this notice will be available for inspection in the Dockets

Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 9, 1982.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-31269 Filed 11-12-82; 2:03 pm]
BILLING CODE 4160-01-M

federal register

Tuesday
November 16, 1982

Part V

Department of Health and Human Services

Food and Drug Administration

**Reviews of Performance Standard for
Diagnostic X-ray Systems and Their
Major Components; Invitation To Submit
Comments, Data, and Information**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

21 CFR Part 1020

[Docket No. 82N-0274]

Review of Performance Standard for Diagnostic X-ray Systems and Their Major Components; Invitation To Submit Comments, Data, and Information

AGENCY: Food and Drug Administration.

ACTION: Invitation to submit comments, data, and information.

SUMMARY: The Food and Drug Administration (FDA) announces that it is reviewing the performance standard for diagnostic x-ray systems and their major components. This notice invites interested persons to submit comments, data, and information to assist FDA in assessing the benefit, economic cost, and need for revision of the standard. In addition, FDA invites comment on several alternative approaches for minimizing regulatory burdens while assuring the radiation safety of diagnostic x-ray systems.

DATE: Comments, data, and information by February 14, 1983.

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

FOR FURTHER INFORMATION CONTACT: Harvey Rudolph, National Center for Devices and Radiological Health (HFX-73), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4600.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 14, 1981 (46 FR 36333), FDA published a notice announcing a systematic review of its rules and asked the public to comment on those FDA regulations that are most burdensome. The purpose of the review is to identify regulations that impose significant cost burdens and, for such rules, to explore alternative measures for protecting the public health. This retrospective review is required by the Regulatory Flexibility Act (Pub. L. 96-354) and By Executive Order 12291.

Subsequently, as a result of a systematic assessment of public comments in response to the July 14, 1981 notice and other available information, FDA issued a notice in the Federal Register of July 2, 1982 (47 FR 29004), which identified the rules selected as its highest initial review priorities. The July 2, 1982 notice also advised that FDA intended to select other rules for future priority review.

This notice, therefore, announces that, although it was not identified in the July 2, 1982 notice, FDA intends to review the performance standard for diagnostic x-ray systems and their major components (21 CFR 1020.30-1020.32) in light of the new requirements and to investigate alternative approaches that would ensure the radiation safety of diagnostic x-ray systems.

The Standard for Diagnostic X-ray Systems and Their Major Components

In the Federal Register of August 15, 1972 (37 FR 16461), the diagnostic x-ray systems performance standard was published as a final rule, which became effective on August 1, 1974. The standard was adopted under the Radiation Control for Health and Safety Act of 1968 (the act) (42 U.S.C. 263b-263n). The act directs the agency to conduct a radiation control program, including development and administration of performance standards to control the emission of electronic product radiation from electronic products and thereby to protect the public health from the dangers of electronic product radiation. Since that time, several amendments to the standard have been published to account for new technology, clarify misinterpreted provisions, and encourage the improvement of uncertified systems manufactured before the standard became effective (see, e.g., 39 FR 36008, 42 FR 10983, 42 FR 44230, 42 FR 58167, 44 FR 29653, 44 FR 49667, 44 FR 68822, and 45 FR 27927). In addition, a cost-benefit analysis of several significant elements of the standard led, in part, to amendments of the provisions governing assembly/reassembly of diagnostic x-ray equipment (44 FR 22755, 44 FR 44843, and 44 FR 49667).

Costs and Other Impacts of the Standard

To assess the impact of the performance standard for diagnostic x-ray systems and their major components, FDA needs information on economic costs as well as other less quantifiable impacts. Therefore, FDA is inviting interested persons to submit comments, quantitative data, and qualitative information concerning the economic cost and other impacts that may be attributable to the standard. Any interested persons, including the public, manufacturers, dealers, and distributors of electronic products, are invited to submit comments and views; however, comments supported by data, cost estimates, or other factual information would be especially useful.

Areas in which the agency particularly encourages interested persons to comment include:

1. Costs incurred by x-ray equipment manufacturers, dealers, and assemblers as a direct result of the standard, e.g., costs that are separate and distinct from operational costs that are normal components of good manufacturing or business practices and that would exist even in the absence of the standard.

2. Current or ongoing costs of documentation, e.g., to maintain quality control records by a manufacturer, or to file reports of assembly (Form FD-2579) by an assembler, and that are distinct from costs necessary to comply with other supporting regulations, e.g., preparation of initial, model change, or annual reports (as required by 21 CFR Part 1002).

3. Current or ongoing added personnel costs, e.g., to manage a product certification program.

4. Current or ongoing training costs, e.g., for special training for quality control technicians or assemblers to ensure compliance with the standard.

5. Current or ongoing cost of special test equipment, e.g., to perform compliance tests.

6. Current or ongoing cost to allocate additional personnel for liaison with the Federal government, e.g., to write letters, attend meetings, respond to notices of adverse findings.

7. Effects on product development, e.g., added costs to develop new products or improve existing products, barriers to marketing of new or novel products.

8. Effects on availability of diagnostic x-ray equipment, e.g., preventing or restricting the availability of special equipment needed or desired by purchasers.

9. Costs resulting from specific requirements of the standard for features that would not otherwise be part of the finished product, e.g., for special labels to be provided on diagnostic x-ray equipment, or for the audible signal to be provided on Fluoroscopic equipment with optional high exposure rate control.

10. Costs resulting from increased complexity of diagnostic x-ray equipment that may be due to requirements in the standard, e.g., increased maintenance costs, increases or decreases in "downtime".

11. Costs to manufacturers to execute corrective action programs, e.g., to remedy defects in products not complying with the standard.

12. Impacts on State regulations and State compliance activities brought

about directly or indirectly by Federal regulatory activities.

13. Impacts on individuals, e.g., physicians or other health care practitioners, physicists, radiologic engineers, radiologic technologists.

Interested persons also are invited to comment on any costs or other impacts not suggested in this notice. Information should include detailed statements of costs and should separate ongoing costs from unrecoverable start-up costs, which will not be addressed in this analysis.

Benefits of the Standard

FDA is convinced that, aside from the impact of the diagnostic x-ray equipment standard on costs and other factors, the standard has provided significant benefits and that, to assess the standard, it is important to examine the public health benefits in comparison to the costs. Therefore, other areas in which the agency encourages interested persons to comment include:

1. Any radiation dose reductions due to diagnostic x-ray equipment performance features required by the standard, e.g., positive beam limitation, reproducibility and linearity of exposure values, fluoroscopic entrance exposure rate limits.

2. Any enhancement of the reliability of specific components due to the increased emphasis on manufacturing quality control measures.

3. Any benefits to users or assemblers from the documentation required to be provided, e.g., equipment specifications, user information, manufacturer's instructions.

4. Any benefits to manufacturers from the requirements for common radiation safety features for equipment marketed in any State.

5. Any enhancement of imaging performance, e.g., reduction in scatter radiation due to collimation requirements.

6. Any benefits to State and local radiation control programs, e.g., additional resources for compliance testing, support provided for calibration of test equipment used in conjunction with the standard.

Interested persons are urged to comment on these and any other benefits they perceive to be derived from the standard. Again, comments should quantify costs as specifically as possible and should identify benefits directly attributable to the standard.

Alternative Approaches

In addition to soliciting views of the public on the impacts and benefits of the current performance standard for diagnostic x-ray systems and their major

components, FDA intends to evaluate all available alternatives for assuring the radiation safety of diagnostic x-ray systems and compare viable alternatives from a cost-effectiveness point of view. Several possibilities have been under discussion within the agency and are discussed below.

1. *Revoke the performance standard for diagnostic x-ray systems and their major components.* It has been suggested that most of the requirements of the standard were derived from preexisting voluntary x-ray equipment standards and that the standard should be revoked in its entirety. In this situation, FDA could rely on its defect notification and remedial authority under the Radiation Control for Health and Safety Act of 1968 to take action against truly defective diagnostic x-ray equipment and on the medical device good manufacturing practice regulations (21 CFR Part 820) to assure adequate manufacturing quality control. FDA invites comments on the advisability of this approach.

2. *Change enforcement strategy.* It has been suggested that the standard should be retained essentially unchanged but that the agency should redirect its limited resources to enforcement of the standard to achieve their maximum effect. One proposal has been to redirect current compliance testing efforts such that all diagnostic x-ray systems are inspected once, at initial assembly, for compliance with the standard. This would be a one-time acceptance test approach to performance certification. Future radiation safety of diagnostic x-ray equipment would be assured through voluntary educational approaches sponsored by Federal and State programs. Under this approach, manufacturers would continue to be liable for radiation safety defects and for noncompliance attributable to design flaws in an entire product line. FDA invites comments on the advisability of this approach.

3. *Strengthen/reduce regulatory requirements.* It has been suggested that a performance standard provides the correct means to assure the radiation safety of diagnostic x-ray systems, but that certain provisions of the current standard need to be strengthened and other provisions with little public health impact should be reduced or deleted from the standard. In the first instance, FDA might require manufacturers to provide with diagnostic x-ray systems a quality assurance protocol that would, if followed, reasonably assure that the equipment would continue to comply with the standard. In such a situation, the user would be responsible to follow the protocol and to maintain the

radiation safety of the x-ray equipment (except for radiation safety problems due to manufacturing design defects). In contrast, FDA might reduce the assembler reporting requirements (21 CFR 1020.30(d)) for circumstances where no public health benefits are perceived. FDA is particularly interested in receiving comments that identify which provisions of the standard need to be strengthened to protect the public health and which should be reduced to minimize unnecessary regulatory burdens. FDA also is interested in receiving comments that identify any new areas of equipment performance not adequately covered by existing requirements.

4. *Substitute labeling requirements where possible.* It also has been suggested that many of the constraints imposed by the standard could be replaced by labeling requirements. Such requirements could take the form of information provided to users of diagnostic x-ray equipment specifying dose and imaging performance characteristics under particular conditions of operation. In such a situation, the user would be responsible for the appropriate choice of equipment. This approach is similar to that proposed by FDA for computed tomography x-ray systems (see the Federal Register of October 31, 1980, 45 FR 72204). FDA is particularly interested in receiving comments that identify provisions of the standard that could be replaced by labeling requirements and what form this labeling should take.

5. *Substitute medical device authority.* It has been suggested that regulation under the medical device provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.), particularly the general controls provisions, provides sufficient means to deal with problems currently addressed by the standard. One alternative approach would be to remove many provisions of the standard under the theory that the public health would be adequately protected by these general controls or by using the defect notification and remedial authority under the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602). FDA is particularly interested in receiving comments that identify any provisions of the standard that could be deleted, with reliance instead on general medical device controls to achieve the same regulatory objective, and the advisability of such an approach.

6. *Combined voluntary/regulatory program.* It has been suggested that a few requirements of the standard provide most of the public health protection approved by the standard.

Other provisions having less such impact could be removed from the standard and, where appropriate, could be addressed using a voluntary approach. In this situation, FDA would issue appropriate recommendations and expand its promotion of voluntary educational programs. FDA invites comments on any provisions that could be adequately addressed by such a combined voluntary/regulatory approach and, if so, which provisions of the standard should be retained.

These identified alternatives do not represent any agency preference for a given approach. The public is invited to comment on these approaches or to suggest alternatives of their own. FDA emphasizes that all reasonable

alternatives will be examined thoroughly for their effectiveness in minimizing unnecessary radiation exposure to the public as well as for their potential cost or other impacts.

This notice is issued under the authority of the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10).

No person is required to submit any response to this notice but interested persons may submit written comments, data, or information to the Dockets Management Branch (address above). Two copies of any comments are to be

submitted, except individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments should be submitted by February 14, 1983; however, comments received after that date will be included in the analysis, if possible. Information submitted in response to this notice will be available for inspection in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 9, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-31270 Filed 11-12-82; 2:03 pm]

BILLING CODE 4160-01-M

Reader Aids

Federal Register

Vol. 47, No. 221

Tuesday, November 16, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations	
CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419
Federal Register	
Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187
Laws	
Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
	275-3030
Slip law orders (GPO)	
Presidential Documents	
Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	
	523-5230
SERVICES	
Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

49335-49622	1
49623-49826	2
49827-49948	3
49949-50174	4
50175-50456	5
50457-50676	8
50677-50840	9
50841-51090	10
51091-51338	12
51339-51546	15
51547-51712	16

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR	
Administrative Orders:	58..... 51581
225.....	50268
301.....	51149
414.....	50269
729.....	50706
966.....	51149
989.....	49409
1011.....	50888
1046.....	50888
1098.....	50888
1207.....	50498
1290.....	49974
1794.....	49651
1930.....	50273
1944.....	50273
Proposed Rules:	
8 CFR	
235.....	49953
242.....	49954, 51351
Proposed Rules:	
235.....	49974
9 CFR	
92.....	49344, 50845
97.....	49346
166.....	49940
Proposed Rules:	
85.....	49930
113.....	50899
317.....	50900, 50914
318.....	50900
319.....	50900
320.....	50914
381.....	50914
10 CFR	
501.....	50846
504.....	50846
506.....	50846
Proposed Rules:	
2.....	51402
50.....	50918
563.....	00000
12 CFR	
31.....	49347
203.....	49954, 49956
204.....	49827
211.....	51094
215.....	49347
261.....	51096
523.....	50201
545.....	50201
556.....	49828
563.....	49627, 50201
565.....	51097
584.....	49828
589.....	49828
590.....	49829
614.....	49831
4 CFR	
51.....	50843
75.....	50843
5 CFR	
831.....	50677
Proposed Rules:	
352.....	51146
7 CFR	
28.....	50843
180.....	50461
210.....	51549
272.....	50179, 50180, 50681, 51551
273.....	49627, 50180
274.....	50681
276.....	50681
282.....	49627
301.....	49335
331.....	51109
354.....	49951
400.....	51345
423.....	50184
429.....	50186
430.....	50188
733.....	51551
905.....	49951
907.....	49952, 51553
910.....	50195, 50196, 51347
932.....	51092, 51348
944.....	51348
1011.....	50197
1421.....	50198
1464.....	51554
Proposed Rules:	
27.....	51147

Proposed Rules:
 509a..... 50918
 545..... 49663, 51583
 563..... 49663, 51583

13 CFR
 118..... 50206
Proposed Rules:
 113..... 49851
 120..... 51403
 121..... 49664

14 CFR
 39..... 49348-49350, 49957,
 49958, 50462-50464,
 51098-51103, 5135-51354
 71..... 49352, 49960-49962,
 50465, 50466, 51355-51357
 97..... 49352, 51358
 241..... 49832
 385..... 51104
 399..... 49963
 1212..... 50466

Proposed Rules:
 Ch I..... 50500
 39..... 51151, 51404
 71..... 49975-49979, 50502,
 51405
 91..... 50674
 120..... 51152
 121..... 51152, 51585
 135..... 51152, 51585

15 CFR
 2009..... 50207

16 CFR
 13..... 49354, 50208, 51558
 1508..... 50850
 1509..... 50850

Proposed Rules:
 13..... 50502, 50922
 1101..... 50283

17 CFR
 5..... 49832
 211..... 49627
 240..... 49963, 50467

Proposed Rules:
 230..... 50292
 240..... 49409, 50292
 270..... 50924

18 CFR
Proposed Rules:
 37..... 50298
 271..... 49852, 50298-50302,
 51406

19 CFR
 10..... 49355
 18..... 49355, 50209
 19..... 49355
 22..... 49355
 24..... 49355
 113..... 49355
 125..... 49355
 127..... 49355
 132..... 49355
 142..... 49355
 144..... 49355

Proposed Rules:
 134..... 49853, 51586
 148..... 49853
 162..... 49853

171..... 49853
 172..... 49853
 177..... 51587

20 CFR
Proposed Rules:
 404..... 49980
 416..... 49980, 50511

21 CFR
 74..... 49628, 49632, 51106
 81..... 49628-49637, 51106
 82..... 49628, 49632, 51106
 131..... 49638
 135..... 49638
 145..... 49638
 176..... 51106
 177..... 49638, 51561
 178..... 51106, 51107, 51561
 184..... 50209
 200..... 50452
 211..... 50442
 314..... 50442
 436..... 51562
 505..... 51563
 510..... 51108, 51109, 51563
 520..... 51564
 522..... 51108
 548..... 51109
 558..... 49639, 49640, 51109,
 51563
 561..... 49840
 601..... 50210
 700..... 50442
 800..... 50452
 809..... 51109
 866..... 50814
 1020..... 50211
 1308..... 49840

Proposed Rules:
 1..... 51588
 101..... 51588
 145..... 49665
 182..... 49666
 184..... 49666
 610..... 50303
 1002..... 51706
 1020..... 51710

22 CFR
Proposed Rules:
 171..... 49980

23 CFR
 420..... 49965
 511..... 49965
 652..... 50469
 659..... 49966
 663..... 50469

Proposed Rules:
 1209..... 49981, 51152

24 CFR
 219..... 51564
 300..... 51360
 885..... 51565
 3280..... 49383, 50215

Proposed Rules:
 27..... 51406

25 CFR
 176..... 50850

26 CFR
 1..... 49841, 50471, 51109

5c..... 49391
 5f..... 50852, 51361, 51364
 20..... 50855
 35..... 51372
 51..... 50215
 53..... 50857
 150..... 50858
 301..... 50484, 50855

Proposed Rules:
 1..... 49981, 50306,
 51412-51415
 31..... 51412, 51422
 51..... 50306, 50924

27 CFR
 194..... 51569
 250..... 51569
 251..... 51569

Proposed Rules:
 4..... 51423
 9..... 49860-49866, 51425

29 CFR
 1910..... 51110
 2510..... 50237
 2619..... 51393

Proposed Rules:
 1902..... 50307
 1910..... 51159

30 CFR
 256..... 50684
 826..... 51316
 937..... 49818

Proposed Rules:
 55..... 51684
 56..... 51684
 57..... 51684
 75..... 51684
 77..... 51684
 225..... 50924
 225a..... 50924
 901..... 49411
 915..... 49868
 920..... 51590
 925..... 49870
 934..... 49666
 935..... 49869
 946..... 49412, 51591

32 CFR
 651..... 51574
 706..... 49641, 49642, 49967,
 49968, 51394-51396
 719..... 49643
 931..... 50684

Proposed Rules:
 1662..... 50310

33 CFR
 100..... 50491, 50492
 165..... 50492
 401..... 51119

Proposed Rules:
 117..... 51169, 51170
 183..... 49983

34 CFR
Proposed Rules:
 300..... 49871

36 CFR
 50..... 51126

37 CFR
 1..... 50242
 2..... 50242

Proposed Rules:
 1..... 50523
 5..... 50523

38 CFR
 1..... 50859
 17..... 50861
 36..... 49392
 39..... 49395

Proposed Rules:
 21..... 50925

39 CFR
Proposed Rules:
 3001..... 49413, 49667

40 CFR
 52..... 49646, 50862, 50864,
 50866, 51129, 51131,
 51397, 51398
 60..... 49606, 49969, 50644,
 50684, 50693, 50863
 61..... 49969, 49970, 50863
 62..... 50868
 65..... 49970
 80..... 49802
 81..... 50870, 50871
 86..... 49802
 120..... 50493
 123..... 49842
 180..... 49844-49846, 50872,
 50873
 600..... 49802

Proposed Rules:
 35..... 50722,
 52..... 49872, 50927, 50928,
 51591
 60..... 49415
 86..... 50929
 120..... 50722
 123..... 51592
 125..... 51593
 131..... 50722
 180..... 49873-49874, 50933
 228..... 50524
 403..... 51593
 461..... 51052
 464..... 51512
 468..... 51278

41 CFR
 Ch. 5..... 50242
 Ch. 22..... 50493
 1-3..... 50251
 1-7..... 50251
 1-15..... 49646, 50251
 101-41..... 50874

Proposed Rules:
 9-3..... 49983
 9-4..... 49983
 9-7..... 49983
 9-16..... 49983
 9-30..... 49983
 9-50..... 49983
 9-51..... 49983

42 CFR
 52..... 50260
 52h..... 50260
 405..... 49846, 49847, 50694
 433..... 49847
 435..... 49847

Proposed Rules:	1201.....	50266
405.....	49415	
43 CFR	1262.....	50266
Ch. II.....	1263.....	50266
3300.....	1300.....	50261
	1307.....	50878
Proposed Rules:	1310.....	50878
Subtitle A.....	172.....	51430
	173.....	51430
44 CFR	175.....	51430
64.....	391.....	50528
67.....	571.....	49429, 49993, 50533, 51432
45 CFR	575.....	50533
801.....	1003.....	49691
Proposed Rules:	1039.....	50311
1207.....	1060.....	51434
1208.....	1083.....	51434
1209.....	1134.....	49691
1606.....		
1607.....		
1612.....		
1617.....		
1625.....		
46 CFR	50 CFR	
521.....	17.....	50881
522.....	83.....	51140
531.....	285.....	50886
536.....	296.....	49600
Proposed Rules:	663.....	49620
31.....	671.....	51400
32.....		
35.....	Proposed Rules:	
67.....	611.....	51336
150.....	646.....	51601
221.....		
340.....		
355.....		
47 CFR		
1.....		
22.....		
43.....		
73.....		
90.....		
97.....		
Proposed Rules:		
Ch. I.....		
2.....		
22.....		
73.....		
83.....		
97.....		
49 CFR		
Ch. X.....		
Ch. XII.....		
1.....		
172.....		
192.....		
215.....		
450.....		
451.....		
452.....		
453.....		
571.....		
575.....		
840.....		
1033.....		
1039.....		
1057.....		

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next

work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 28, 1982